

VIRGINIA:
THE GENERAL DISTRICT COURT
OF THE COUNTY OF ARLINGTON

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: IN THE MATTER OF: :
: :
COMMONWEALTH OF VIRGINIA : GC-20000810-00
: :
VS. :
: :
CURTIS LEVAR WELLS, JR. :
: :
DEFENDANT. :

Monday,
March 16, 2020

Arlington, Virginia

The preliminary hearing commenced at
12:19 p.m.

BEFORE:

THE HONORABLE DANIEL T. LOPEZ, JUDGE

PLAINTIFF'S
EXHIBIT

5

APPEARANCES:

ON BEHALF OF THE COMMONWEALTH OF VIRGINIA:

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EXHIBIT NO.	DESCRIPTION	IDEN	RECD
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Commonwealth's

1	Photograph of items found in Mr. Wells' vehicle	10	11
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1 P-R-O-C-E-E-D-I-N-G-S

2 THE COURT: All right. Mr. Wells,
3 have you had any trouble hearing what's going on
4 today in court?

5 THE DEFENDANT WELLS: I have not, Your
6 Honor.

7 THE COURT: All right. All right,
8 sir, I'm just going to remind you that, if you
9 make outbursts or you say things that could be
10 used against you at some point, these aren't
11 ideal because you aren't sitting right next to
12 your attorney. But let it be known, I want you
13 to know that this is not a trial; it's a
14 preliminary hearing. Do you understand?

15 THE DEFENDANT WELLS: I do understand,
16 Your Honor.

17 THE COURT: So, there will be no
18 finding as to guilt or innocence.

19 If there's anything you want to say to
20 your attorney, sir, remember this room is full of
21 people. So, please don't make any outbursts.
22 Okay?

1 THE DEFENDANT WELLS: Completely
2 understand, Your Honor.

3 THE COURT: All right. All right.
4 Let me have the witnesses raise your right hands
5 to be sworn.

6 (WITNESSES SWORN.)

7 THE COURT: All right. The defense
8 counsel has asked for a rule on witnesses. So,
9 one of you will remain; the others will wait
10 outside. Please don't discuss your testimony
11 with anybody else, including your colleagues who
12 will be sitting out there with you. All right?

13 MS. WRIGHT: Corporal Lagasse is the
14 first.

15 THE COURT: All right, Corporal.
16 WHEREUPON,

17 CORPORAL LAUREN LAGASSE
18 was called for examination by Counsel for the
19 Commonwealth and, having first been duly sworn,
20 assumed the witness stand, was examined and
21 testified as follows.

22 THE CLERK: Have a seat here. It's

1 especially important that you speak into the
2 microphone because we are doing this by video to
3 be able to hear, for the Defendant to hear.

4 THE WITNESS: Okay.

5 THE CLERK: Thank you.

6 THE COURT: So, before you begin, Mr.
7 Wells, if you can't hear, please let us know that
8 you can't hear. Okay?

9 THE DEFENDANT WELLS: Noted, Your
10 Honor.

11 THE COURT: Very well.

12 DIRECT EXAMINATION

13 BY MS. WRIGHT:

14 Q Please state your name and occupation.

15 A Corporal Lauren Lagasse, police
16 officer with the Arlington County Police
17 Department.

18 Q And how long have you been an officer
19 with the Arlington County Police Department?

20 A I've been employed since December
21 2015.

22 Q And on February 9th of this year, were

1 you so employed in that capacity?

2 A I was.

3 Q And on that date, did you come into
4 contact with someone that you know to be Curtis
5 Wells?

6 A I did.

7 Q Do you see Mr. Wells in the courtroom
8 today anywhere?

9 A I do. I see him on the video monitor
10 behind the judge.

11 Q Okay. Thank you.

12 MS. WRIGHT: If the Court would please
13 note the identification of the Defendant?

14 THE COURT: She has identified Mr.
15 Wells.

16 MS. WRIGHT: Thank you.

17 BY MS. WRIGHT:

18 Q On February 9th of this year, did you
19 respond to a call involving the Defendant?

20 A I did.

21 Q And what was the nature of that call?

22 A It was a suspicious vehicle located

1 outside of Fort Myer. They had called for our
2 assistance.

3 Q And where specifically did you
4 respond?

5 A It was on approximately One Southgate
6 Road outside of the cemetery.

7 Q Is that located here in Arlington
8 County?

9 A It is.

10 Q And when you responded, were there any
11 other officers already on the scene?

12 A There were.

13 Q And who was on the scene when you
14 responded?

15 A Officer Fuentes (phonetic), Corporal
16 Wanik (phonetic), now Corporal Kim Soles
17 (phonetic), and Nicole Pearson (phonetic).

18 Q And where was the Defendant positioned
19 when you arrived?

20 A He was seated on, just along the gate
21 of the cemetery with Officer Soles, and he was
22 detained in handcuffs.

1 Q And did there come a time when you
2 assisted with an inventory of the Defendant's
3 vehicle?

4 A I did.

5 Q And who else assisted with that
6 inventory, if you remember?

7 A My Recruit Officer Klein (phonetic),
8 Corporal Wanik, Officer Pearson, and Officer
9 Fuentes did to some degree.

10 Q Okay. And what, if anything, was
11 located within the vehicle?

12 A Well, there were numerous items
13 located. Amongst those were a Glock 19, an AR 15
14 Diamondback. There was a medium-sized rifle
15 plate. There were two rubber knives, masks,
16 gloves, a crowbar, a drone, a smoke grenade,
17 amongst many other items.

18 Q Okay. And where was the Defendant
19 positioned while you all were conducting that
20 inventory? Was he still seated on the ground?

21 A He was seated along a raised curb
22 along the gate of the cemetery.

1 Q And after conducting the interview,
2 did somebody speak with the Defendant about the
3 contents of the vehicle?

4 A Yes.

5 Q Who was that officer?

6 A That was Corporal Soles.

7 MS. WRIGHT: Your Honor, may I
8 approach the witness?

9 THE COURT: Yes.

10 (WHEREUPON, THE DOCUMENT REFERRED TO
11 WAS MARKED AS COMMONWEALTH'S EXHIBIT NO. 1 FOR
12 IDENTIFICATION.)

13 BY MS. WRIGHT:

14 Q I'm going to show you what's been pre-
15 marked as Composite No. 1. Do you recognize
16 these items?

17 A I do. This was the rifle plate that
18 was located in his vehicle.

19 Q And is that a fair and accurate
20 depiction of how the rifle plate looked on
21 February 9th when you found it inside the
22 vehicle?

1 A It is.

2 MS. WRIGHT: Your Honor, I offer this
3 into evidence as Commonwealth's Exhibit 1.

4 THE COURT: Any objection?

5 MR. CLARKE: No objection.

6 THE COURT: It will be admitted.

7 MS. WRIGHT: Thank you.

8 (WHEREUPON, THE DOCUMENT REFERRED TO,
9 PREVIOUSLY MARKED AS COMMONWEALTH'S EXHIBIT NO. 1
10 FOR IDENTIFICATION, WAS RECEIVED IN EVIDENCE.)

11 MS. WRIGHT: I have no further
12 questions for this witness at this time.

13 THE COURT: Ma'am, could you pass
14 the --

15 THE WITNESS: I can.

16 THE COURT: Thank you very much.

17 Cross-exam?

18 CROSS-EXAMINATION

19 BY MR. CLARKE:

20 Q Where was the rifle plate located?

21 A I do not recall exactly.

22 Q Well, you said that you helped in

1 assisting the recovery of these items?

2 A I did.

3 Q So, it's possible that these items
4 were found somewhere else then?

5 A They were located in the vehicle, and
6 that's all I can tell you.

7 Q But your testimony is that you aren't
8 aware in the vehicle if these were (inaudible).
9 Did you actually physically take these items out
10 of the vehicle?

11 A I don't recall. I don't believe that
12 I took that specific rifle plate out of the
13 vehicle. So, I can't --

14 Q Okay. So, let's clarify this. What
15 exactly were you doing when you saw the item that
16 you just under oath introduced into evidence as
17 Commonwealth 1? You said that is the same plate,
18 correct?

19 A That was the plate, yes.

20 Q So, what were you doing when you saw
21 that plate?

22 A I was amongst many officers. There

1 was a lot of property. So, we were organizing
2 it. I had a recruit officer. So, I'm a field
3 training officer. So, at that point, I was
4 making sure that he was documenting everything
5 that -- I can't tell you exactly where in the
6 vehicle it was located, but it was located from
7 the vehicle, based on my -- the other officers on
8 scene.

9 Q So, it is based on hearsay, not your
10 own personal knowledge of where this thing was?

11 A I don't know where exactly. It came
12 from the vehicle.

13 MR. CLARKE: Your Honor, I'm going to
14 move to strike her testimony about whether or not
15 this was true and accurate.

16 THE COURT: Overruled. She said she
17 knows it came from the car, but she can't tell
18 you exactly where. That's what she says.

19 BY MR. CLARKE:

20 Q Did you draft a police report?

21 A My recruit officer did.

22 Q And who's your recruit officer?

1 A Austin Klein.

2 Q Did you have any other involvement in
3 this case after this initial arrest?

4 A I did not.

5 Q At the time did Mr. Wells seem erratic
6 to you when he was sitting on the side of the
7 road?

8 A He was making various different
9 statements kind of all over the place.

10 Q What statements was he making?

11 A I'm not going to say specifically. He
12 was speaking to another officer, but the things
13 which he was discussing were not one that a
14 normal person would just be talking about on a
15 regular basis.

16 Q But you can't say what it was?

17 A You're going to have to listen to the
18 recording from the interview.

19 Q From the -- I'm talking about your
20 interaction with him on the side of the road.

21 A My interaction was very minimal with
22 him.

1 Q Okay.

2 A But, according to another officer,
3 from what was discussed with him, his statements
4 that were made were -- it ranged.

5 Q Okay. But you didn't hear any of
6 these statements yourself?

7 A I heard pieces of it.

8 Q Right, and that's what I'm trying to
9 get to.

10 A And I'm not, I'm not going to testify
11 to exactly what was said.

12 Q Why not?

13 A Because it's on the recording and I
14 can't recall exactly what was said.

15 Q So, you can't recall what was said?
16 All right.

17 A That's correct.

18 Q And the firearm that was found, the
19 Glock 19, it was unloaded?

20 A I did not recover the Glock from the
21 vehicle. Another officer did.

22 Q The AR 15 Diamondback, was that loaded

1 or unloaded?

2 A That was recovered by another officer
3 from the vehicle.

4 MR. CLARKE: No further questions,
5 Your Honor.

6 THE COURT: Any redirect?

7 MS. WRIGHT: No, Your Honor.

8 THE COURT: She's subject to recall?
9 Or is she free to go?

10 MS. WRIGHT: I'll leave her subject to
11 the recall.

12 THE WITNESS: Okay.

13 THE COURT: All right. Corporal, just
14 wait outside. Please don't discuss your
15 testimony with the other officers.

16 (WITNESS EXCUSED.)

17 THE COURT: Next witness?

18 MS. WRIGHT: Corporal Soles.

19 MR. CLARKE: And I apologize, Your
20 Honor. I'm always sitting down because --

21 THE COURT: That's okay. So, they can
22 hear you. Mr. Clarke, just as I stated before,

1 because the Court may make another determination
2 on bond at the preliminary hearing, if you have
3 any questions that might go to bond, you should
4 ask them now, so we don't have to call everybody
5 back up.

6 MR. CLARKE: No, Your Honor.

7 THE COURT: All right. And I can
8 easily distinguish what's the charge from what
9 the issue is at bond.

10 All right, Corporal Soles, come up and
11 have a seat, please.

12 Thank you.

13 WHEREUPON,

14 CORPORAL KIMBERLY SOLES
15 was called for examination by Counsel for the
16 Commonwealth and, having first been duly sworn,
17 assumed the witness stand, was examined and
18 testified as follows.

19 THE WITNESS: Thank you, Your Honor.

20 DIRECT EXAMINATION

21 BY MS. WRIGHT:

22 Q Please state your name and occupation.

1 A Corporal Kimberly Soles. I am a
2 police officer with Arlington County Police
3 Department.

4 Q And how long have you been employed
5 with the Arlington County Police Department?

6 A Over three years.

7 Q And on February 9th of this year, were
8 you still employed, on duty, and displaying your
9 badge of authority?

10 A Yes.

11 Q And on that date, did you come into
12 contact with someone that you know to be Curtis
13 Wells?

14 A I did.

15 Q And do you see Mr. Wells anywhere in
16 the courtroom today?

17 A He is on the teleprompter up there.

18 Q Thank you.

19 A The TV.

20 Q And on February 9th, did you respond
21 to a call involving the Defendant?

22 A I did.

1 Q Where did you respond?

2 A Over at One Southgate, outside of the
3 base and the Arlington Cemetery.

4 Q And is that located here in Arlington
5 County?

6 A It is.

7 Q And when you responded to the scene,
8 were other officers already on the scene?

9 A They were.

10 Q Who was on scene when you arrived?

11 A There was Corporal Wanik and there was
12 Officer Fuentes.

13 Q And where was the Defendant when you
14 arrived on scene?

15 A He was in the driver seat and was
16 being -- he was getting out of the driver's seat
17 with Officer Fuentes.

18 Q Okay. And after you arrived on the
19 scene, did you Mirandize the Defendant?

20 A I did.

21 Q And how long after you arrived on the
22 scene did that happen?

1 A It happened almost immediately. He
2 was placed into handcuffs and, then, within
3 minutes after, I did.

4 Q And did you speak with him before or
5 after the vehicle was inventoried?

6 A I spoke with him while the vehicle was
7 being inventoried and after.

8 Q Okay. And what did he say to you?

9 A He stated that everything laid out
10 made it look suspicious. And I asked him why he
11 had all the belongings, and he said that he does
12 a lot of training because he wants to be a
13 contract -- contract training for other officers
14 and other people that are interested in training.

15 Q Did he elaborate on what that meant at
16 all to you?

17 A He was very vague in his answers to
18 me.

19 MR. CLARKE: Objection as to vague,
20 Your Honor. She just laid out the details, Your
21 Honor, and, then, she said that he was vague.

22 THE COURT: I'll overrule. You can

1 cross-examine her on that issue. It's her
2 impression.

3 BY MS. WRIGHT:

4 Q Did he make any other statements to
5 you?

6 A We talked about a lot of different
7 things, some relevant, some not. He talked about
8 being from Texas, where his family is, and talked
9 about how he was in the military, but got out
10 after three years, things of that nature.

11 MS. WRIGHT: Your Honor, I have no
12 further questions for this witness at this time.

13 THE COURT: Cross-examine?

14 CROSS-EXAMINATION

15 BY MR. CLARKE:

16 Q When you arrived on the scene, Mr.
17 Wells did give you details about why the items
18 were in his vehicle, correct?

19 A He said that he had the items because
20 he does a lot of training and that he is hoping
21 to be a contract trainer for other people through
22 his business.

1 Q Okay. And then, on direct, you said
2 that he was being vague, but that sounds like
3 he's giving you a lot of details about his
4 employment. Wouldn't you say that?

5 A Well, when I asked who he works for,
6 what exactly he does, that's when he wasn't
7 answering the questions.

8 Q Did you ask any followup questions to
9 him?

10 A I attempted to find out more about the
11 place of employment and where he works, if it's
12 an office, if he works from home. And he still
13 said he mostly worked from home, but there is an
14 office. So, it was kind of both and roundabout,
15 which is why I said he was vague.

16 Q Okay. And you said that you gave him
17 his advice on constitutional rights?

18 A Yes.

19 Q Okay. And those rights are the rights
20 to remain silent?

21 A That is one of them. It's all stated
22 on a card that's issued to us from my agency that

1 I read directly from.

2 Q So, if the Defendant is not silent,
3 then you would say that they were being patently
4 vague?

5 A No, I did not say that.

6 Q I'm sorry, if the Defendant is silent,
7 then you would say that they were being vague?

8 A No.

9 Q Okay. But you would admit that he did
10 have the right to remain silent at that point?

11 A I did tell him he had the right to
12 remain silent and he said he understood, yes.

13 Q So, him not answering your questions,
14 that's not him being vague? That's him
15 exercising his constitutional right to remain
16 silent?

17 A But he wasn't being silent.

18 Q I'm sorry, was he being vague or was
19 he just not -- was he not answering your
20 questions or was he being --

21 A He was not answering the questions by
22 not giving an answer of, oh, I work for business

1 such-and-such. He was being vague in that, oh, I
2 work for myself; oh -- things of that nature.
3 Nothing direct.

4 Q So, did you ask followup questions?
5 Sorry, I didn't get your answer to that.

6 A Again, we talked at length.

7 Q Okay. And Mr. Wells was taken into
8 custody on that day?

9 A Yes.

10 Q On February 9th?

11 A Well, he was detained at that time
12 while they were doing the inventory of the
13 vehicle.

14 Q Was he arrested on that day?

15 A He was issued citations for parking
16 infractions, or the registration infraction I
17 believe, and then, he was released.

18 Q He was released?

19 A To my understanding, he left with the
20 tow truck driver.

21 Q But you just said that he made all
22 these vague statements, but he was released on

1 citations that day?

2 A Well, it's not illegal to make vague
3 statements.

4 Q But he did have two firearms in the
5 vehicle?

6 A You would have to talk with the
7 officers that were investigating that.

8 Q But at the time you didn't see
9 anything that would warrant him being taken into
10 custody?

11 A At that point he was detained. He was
12 not under arrest.

13 MR. CLARKE: No further questions.

14 THE COURT: Any redirect?

15 MS. WRIGHT: No redirect, Your Honor.

16 THE COURT: All right. I have a
17 question.

18 THE WITNESS: Yes, sir.

19 THE COURT: So, when you came into
20 contact with Mr. Wells, you said he was getting
21 out of his vehicle?

22 THE WITNESS: Yes.

1 THE COURT: So, where was his vehicle,
2 was it in relation to the Southgate?

3 THE WITNESS: So, the Southgate is --
4 sorry, it's going to be situated around here.
5 There's a long line of parking that's like front-
6 end-in that's all facing the cemetery. He was in
7 that parking, parking spot, facing the cemetery.
8 So, he would have been a little bit kind of east
9 of the Southgate entrance.

10 THE COURT: And the Southgate entrance
11 is at the top of the hill with the road coming up
12 from 110 going past the Netherlands Carillon? Is
13 that the Southgate?

14 THE WITNESS: So, Southgate is --

15 THE COURT: By Iwo Jima Memorial?

16 THE WITNESS: No, it's the one that's
17 over by the Air Force Memorial.

18 THE COURT: Oh, okay. All right. And
19 who else was around Mr. Wells at this point
20 besides law enforcement?

21 THE WITNESS: I only saw law
22 enforcement around him.

1 THE COURT: All right. Was there
2 emergency equipment activated?

3 THE WITNESS: I don't recall.

4 THE COURT: And was he in handcuffs
5 when you were talking to him?

6 THE WITNESS: He was being placed in
7 handcuffs, and then, he was in handcuffs the
8 entire time I talked to him.

9 THE COURT: All right. Any questions
10 based on mine?

11 FURTHER CROSS-EXAMINATION

12 BY MR. CLARKE:

13 Q Approximately how far away from the
14 actual gate was Mr. Wells?

15 A I couldn't give --

16 Q What's the (inaudible)?

17 A I couldn't give you an estimated
18 number. Several hundred feet; I'm not sure.

19 Q Several hundred feet?

20 A I would -- it would be my best guess.
21 I couldn't give you a true, accurate estimate.

22 Q Was it fair to say that he wouldn't be

1 able to see the front gate from where his vehicle
2 was parked?

3 A I wouldn't be able to say that, yes,
4 one way or another.

5 Q You said you would or --

6 A I would not be able to say that one
7 way or another.

8 Q No?

9 MS. WRIGHT: May I ask a few
10 questions?

11 THE COURT: Yes, please.

12 REDIRECT EXAMINATION

13 BY MS. WRIGHT:

14 Q Corporal Soles, do you know who
15 detained the Defendant? Do you remember?

16 A It would have been Officer Fuentes.

17 Q Okay. Do you know if he detained him
18 before or after he learned that there were
19 firearms in the vehicle?

20 A He detained him after he learned there
21 were firearms in the vehicle.

22 Q Okay. And did the Defendant indicate

1 to Officer Fuentes that there were firearms in
2 the vehicle?

3 A I was told by Officer Fuentes that --

4 MR. CLARKE: Objection, Your Honor.
5 It's hearsay.

6 THE COURT: Well, I mean, you're going
7 to ask me to reconsider bond. In a bond motion
8 hearsay is allowed. So --

9 MR. CLARKE: Oh, as long as it's
10 for --

11 THE COURT: Go ahead.

12 BY MS. WRIGHT:

13 Q Go ahead. Go ahead.

14 A I was told by Officer Fuentes that he
15 was informed there was a handgun in the center
16 console of the vehicle.

17 Q And do you know if Officer Fuentes was
18 told there were any other firearms in his
19 vehicle?

20 A At that point I didn't know.

21 MS. WRIGHT: I have no further
22 questions of this witness.

1 THE COURT: All right. Subject to
2 recall?

3 MS. WRIGHT: Also subject to recall.

4 THE COURT: All right. Corporal
5 Soles, you're subject to recall. Please wait
6 outside and don't discuss your testimony with
7 anybody else.

8 THE WITNESS: Thank you, Your Honor.

9 (WITNESS EXCUSED.)

10 MS. WRIGHT: Detective Shepherd.

11 WHEREUPON,

12 DETECTIVE KEITH E. SHEPHERD

13 was called for examination by Counsel for the
14 Commonwealth and, having first been duly sworn,
15 assumed the witness stand, was examined and
16 testified as follows.

17 THE COURT: All right, Detective, come
18 up and have a seat in the witness chair, please.

19 THE WITNESS: Thank you, Your Honor.

20 DIRECT EXAMINATION

21 BY MS. WRIGHT:

22 Q Please state your full name for the

1 Court.

2 A Keith E. Shepherd.

3 Q And, Mr. Shepherd, what do you do for
4 a living?

5 A I am a detective assigned to the
6 Department of the Army at Joint Base Myer-
7 Henderson Hall.

8 Q And how long have you been doing that?

9 A I've been a detective since 2016.
10 I've been employed with the agency since 2009.

11 Q And are you in the United States Army?
12 Like are you active --

13 A Not in this capacity.

14 Q Okay. And can you explain to the
15 Court your duties and responsibilities as it
16 pertains to the United States Army?

17 A My duties and responsibilities are
18 basically to investigate any and all instances
19 that might have a nexus to the Department of
20 Defense. So, larcenies, assaults, threats
21 online, basically anything that would affect that
22 installation or possibly the Army a little bit

1 wider.

2 Q And you indicated that you have
3 previously investigated larcenies, is that
4 correct?

5 A I have.

6 Q And what do you do in preparation to
7 investigating a larceny?

8 A Depending on the larceny, but,
9 basically, gather facts, gather evidence, attempt
10 to link subjects, witnesses, victims, depending
11 on whether it's an individual or if it's a series
12 of larcenies.

13 Q And when investigating a larceny, do
14 you also determine the value of the property that
15 is missing?

16 A Yes, we do.

17 MS. WRIGHT: Your Honor, may I
18 approach with Commonwealth 1?

19 THE COURT: Yes.

20 BY MS. WRIGHT:

21 Q Detective, I'm going to show you
22 what's already in evidence as Commonwealth's

1 Exhibit 1. Do you know what this is?

2 A This is an E-SAPI plate.

3 Q And can you explain to the Court what
4 it is exactly?

5 A So, this is a ceramic armor protective
6 insert utilized for a ballistic vest issued to
7 military troops and some law enforcement
8 agencies, designed to be paired in this instance
9 in an interceptor outer tactical vest. So, if
10 one were to deploy to Afghanistan, you would have
11 a vest. It would have a soft armor panel backing
12 it and, then, this hard armor plate placed in
13 front of it. The purpose of this plate is to
14 stop rifle rounds. So, armor-piercing, 5.56-
15 caliber, M4-style rifle rounds, AK rounds, and
16 rounds of that nature.

17 Q Okay. Are those high-caliber rounds
18 that you're listing off or --

19 A You could call them high-caliber.
20 They're standard military-grade rifle rounds used
21 in combat.

22 Q Okay. Are plates like this purchased

1 by the United States Army?

2 A Yes, they are.

3 Q And do you know the Army purchasing
4 process?

5 A Not exactly because I'm not a
6 Contracting Officer. I have a very loose
7 understanding of it.

8 Q Okay. And when you were investigating
9 -- did you come to investigate an individual that
10 you know to be Curtis Wells?

11 A Yes.

12 Q And when you were investigating the
13 Curtis Wells case, was that a larceny case?

14 A It was.

15 Q Okay. And as part of that
16 investigation, did you determine how the Army
17 purchased rifle plates like this?

18 A I did.

19 Q Okay. And as a part of that
20 investigation, did you learn how this particular
21 rifle plate or rifle plates like this were
22 purchased by the Army?

1 A Yes, I did.

2 Q Okay. And can you explain that to the
3 Court?

4 A So --

5 MR. CLARKE: Objection, Your Honor.

6 I believe that was a compound question. She
7 said, larceny plates or larceny plates like this.
8 Mr. Wells currently is being charged with stolen
9 property for this particular rifle plate, not for
10 any other rifle plate. So, she can just specify
11 that she's talking about a purchase like this
12 rifle --

13 THE COURT: All right. Rephrase your
14 question.

15 MS. WRIGHT: Okay.

16 BY MS. WRIGHT:

17 Q Did you investigate how this
18 particular rifle plate was purchased by --

19 A Yes, I did.

20 Q Can you explain that to the Court?

21 A So, the Army initiated a contract. If
22 I may refer to my notes real quick? The United

1 States Army sent out a contract request to
2 Ceradyne Industries for X amount of plates.

3 I reached out to Ceradyne Industries
4 with these photos of this plate, along with the
5 serial number. They were able to tell me that it
6 was purchased under an Army contract. They
7 provided me with a copy of the contract to prove
8 that this plate serial number came in Lot No. 10.
9 It was part of that lot ordered in on or around
10 March of 2011.

11 Based on the documents they sent me,
12 ordered under Army contract, paid for by the
13 Army, manufactured by Ceradyne Industries, and
14 then, Ceradyne Industries shipped these to a
15 military shipping and receiving point for the
16 United States Army, so that they could be
17 distributed throughout the force.

18 Q Okay. And do you know the purchase
19 price of this plate?

20 A According to the Central Issuing
21 Facility supervisor at Fort Myer, this plate cost
22 \$590.

1 Q Okay. And once the plates are
2 purchased, how does the Army come into possession
3 of the plates? Do they eventually receive them
4 on base?

5 A Yes.

6 Q Okay.

7 A Yes.

8 Q And once they are received on base, do
9 you know if they are, then, distributed out to
10 active duty servicemen?

11 A They are.

12 Q Okay. And do you know how that
13 process works, how they're distributed to --

14 A So, all of the military-type equipment
15 goes to a Central Issuing Facility on any
16 installation. That, it's basically a warehouse.

17 Q Okay.

18 A So, service members, when they're
19 newly assigned to the installation as part of
20 their in-processing are directed to go to the
21 Central Issuing Facility and, depending on what
22 their job is, they have a list of items that they

1 are required to receive from that Central Issuing
2 Facility and maintain for the duration of time
3 they are assigned to that installation.

4 There are some differences between an
5 initial issue and an installation-specific issue.
6 Some items service members are allowed to keep
7 for their entire contract. Some items, such as
8 body armor and very specific tactical gear, are
9 drawn at the installation and, then, turned back
10 in, so they can be recycled, because each
11 installation has a different purpose.

12 Q Okay. And do you know where this
13 plate would fall under that?

14 A This is a draw it at the installation
15 and turn in before you depart that installation
16 for any reason.

17 Q Okay. Is there ever a time, if you
18 know, when someone either retires or is
19 discharged from the Army, that they are ever able
20 to keep a plate like this?

21 A There is not.

22 MS. WRIGHT: I have no further

1 questions for this witness.

2 THE COURT: Cross-examine?

3 MS. WRIGHT: Oh --

4 THE COURT: Go ahead. If you have
5 more questions, please feel free to ask them.

6 MS. WRIGHT: Thank you. I just want
7 to ask one question.

8 BY MS. WRIGHT:

9 Q Do you know where the Southgate
10 entrance is to Fort Myer?

11 A Yes, ma'am.

12 Q And do you know where that is in
13 relation to the cemetery?

14 A Yes, ma'am.

15 Q And if someone is parked right in
16 front of the cemetery, how far away is that to
17 the gate?

18 A So, there are two gates on that side
19 of the installation, one which is permanently
20 closed, which is called Henderson Hall Annex
21 Gate, which abuts the cemetery wall itself. And
22 then, there is the Henderson Hall Gate, as we

1 call it, which is up closer to the Marine Corps
2 Exchange.

3 If we're speaking about where the
4 vehicle in this case was parked in relation to
5 the Annex Gate, it's probably 50 feet. If we're
6 talking about the gate that is open and manned
7 with security personnel, you're talking about 200
8 yards.

9 Q Okay. Would somebody parked in that
10 parking lot be able to see the gate --

11 A No.

12 Q -- from where they were parked? No?

13 A Not the one that's open and
14 operational.

15 Q The one that's closed, would you be
16 able to see that?

17 A Absolutely.

18 Q And is there ever anybody manning that
19 gate, although it is closed?

20 A At certain hours, based on our current
21 increase in security posture -- I can't give you
22 the schedule -- but there are patrols that do

1 keep an eye on that gate because it is considered
2 a vulnerability point.

3 Q Okay.

4 MS. WRIGHT: I have no further
5 questions of this witness at this time.

6 THE COURT: Cross?

7 THE DEFENDANT WELLS: Can I just ask
8 questions?

9 THE COURT: Your attorney.

10 THE DEFENDANT WELLS: Oh, okay.

11 THE COURT: They turned off your
12 client's microphone, which is probably a good
13 idea.

14 Sir, your attorney is asking
15 questions. You have an attorney here to
16 represent you. That's his job. So, he's
17 representing you. So, it's not up to you to ask
18 the questions. Mr. Clarke is doing that.

19 CROSS-EXAMINATION

20 BY MR. CLARKE:

21 Q How long did you say that you're
22 working, that you were working for the Department

1 of the Army?

2 A I have been an employee with the
3 Department of the Army police since February of
4 2009.

5 Q And during direct testimony, you said
6 that there is never any instance where a rifle
7 plate that was issued to a service member would
8 be released back to that service member for --

9 A Not lawfully, by policy.

10 Q Say that again?

11 A Not lawfully, according to policy.

12 Q And this purchase, to wrap up what you
13 said, was purchased back in 2011?

14 A The order was placed in 2011.

15 Q And then, from 2011, it was, then --
16 sorry -- when it was received by the Army base,
17 it was then shipped to Fort Myer? Is that what
18 your testimony is?

19 A That's my understanding.

20 Q That's your understanding of the
21 event?

22 A Yes, sir.

1 Q Okay. So, you're not really sure?

2 A So, the way these plates are done is
3 they go to a Central Issuing hub outside of the
4 installation. So, they go to -- give me one
5 second -- it's a U.S. Army command at Aberdeen
6 Proving Group. Once they enter that system, they
7 are no longer tracked by serial number. So, I
8 can't tell you that it came to Fort Myer. I can
9 tell you it is a serialized plate owned by the
10 United States Army. But once it enters the
11 Army's supply system, the Army tracks it by size,
12 not by serial number.

13 THE CLERK: The Court's indulgence,
14 Your Honor.

15 (PAUSE.)

16 BY MR. CLARKE:

17 Q So, did you tell Detective Wanik,
18 around February 13th, 2020, that this particular
19 shipment of rifle plates were received by the
20 U.S. Army at Aberdeen Proving Ground and, then,
21 subsequently, transferred to the U.S. Army at
22 Fort Myer?

1 A That was the belief. So, they were
2 received by the United States Army at Aberdeen
3 Proving Ground and, then, believed to have been
4 shipped to Fort Myer.

5 Q What are you basing that belief on?

6 A Assumption.

7 Q So, you're speculating?

8 A Yes.

9 Q You're conjecturing?

10 A Sorry, not familiar with the word.

11 Q Withdraw that last question.

12 And you talked about the rifle plate
13 itself and the grade of that rifle plate. Those
14 rifle plates are also widely available to the
15 public as well? It's nothing that's exclusive to
16 the Army?

17 A I mean, this green style here is
18 fairly exclusive to the Army.

19 Q So, fairly? What do you mean by
20 fairly exclusive?

21 A I mean, I'm not an expert on who else
22 Ceradyne sends their plate to. In my years, I

1 have only ever seen this style of SAPI plate
2 issued to the Department of Defense.

3 Q So, it's possible that this particular
4 rifle plate could have been sold publicly?

5 A No, not based on the information that
6 I was provided by the manufacturer.

7 Q So, are there other types of rifle
8 plates that are Army-issued that could be sold
9 publicly?

10 A Not to my knowledge, but I'm not a
11 supply specialist.

12 Q So, you just simply just don't know?

13 A Not to that -- I can tell you that
14 this plate was bought and sold to the United
15 States Army.

16 Q I'm talking about, I'm talking about,
17 I'm talking about plates that have that U.S.
18 symbol line. Those plates, in general, those
19 plates could possibly be sold publicly or
20 surplus by the Army?

21 A Okay. I can't -- so, I can tell you
22 that they're not surplus by the Army.

1 Q Okay.

2 A As per the DLA disposition individual
3 that we spoke to at Fort Meade that handles
4 disposition of all D mail D type items, which
5 these plates are considered, the DoD policy
6 across the board is, once they reach the end of
7 their service life, they are to be physically
8 destroyed. They are not, by policy, lawfully
9 allowed to be transferred to the civilian market.

10 Q Okay. You say by policy, but it does,
11 it does happen?

12 A I mean, lots of things happen. That
13 doesn't make them legal.

14 MR. CLARKE: Just a moment, Your
15 Honor.

16 BY MR. CLARKE:

17 Q And do you know whether or not this --
18 whether or not the value of the plate goes up and
19 down, depending on whether it's still useful to
20 the Army?

21 A I -- all I can tell you is, when I
22 checked with the Central Issuing Facility, they

1 gave me a set price for this plate. They did not
2 mention any depreciation because the item is
3 either serviceable and should be replaced or not
4 serviceable and it would be destroyed.

5 Q And you're not sure whether or not
6 this fell on the former or latter?

7 A I, because I've not inspected the
8 plate or had the plate inspected for
9 serviceability, I can't testify to that.

10 Q Okay. So, it's possible that this
11 plate could be out of service and considered no
12 longer useful to the Army at that point?

13 A In its current condition, yes. When
14 it was issued, no, it would have been fully
15 functional.

16 MR. CLARKE: Nothing further, Your
17 Honor.

18 THE COURT: Redirect?

19 MS. WRIGHT: Yes, Your Honor.

20 REDIRECT EXAMINATION

21 BY MS. WRIGHT:

22 Q Can you tell me what the service life

1 is on each plate?

2 A Only by speculation. But, basically,
3 the way it was explained to me, the plates are
4 serviceable so long as they are inspected and
5 found to be useful, unlike soft body armor that
6 the manufacturers have, I think, an average of
7 five years. And again, that's just based on
8 personal experience, not expertise.

9 Q And how does the Army determine
10 whether a plate is serviceable or not?

11 A I don't know the actual scientific
12 method. I know the end-user one that they tell
13 us is you put it on with the curved edge down and
14 you roll it to listen for any cracks, pops, or
15 snaps. If you hear anything like that, you're
16 supposed to take it in. Then, they will send it
17 off for proper evaluation and issue you another
18 plate.

19 Q And would a non-serviceable plate ever
20 be issued to an active duty serviceman for their
21 use?

22 A Not by policy.

1 Q Okay. And Defendant's counsel briefly
2 discussed depreciation. Do these plates
3 depreciate?

4 A Not to my knowledge.

5 Q Okay.

6 MS. WRIGHT: I have no further
7 questions at this time.

8 THE COURT: Is he subject to recall?

9 MS. WRIGHT: Yes.

10 THE COURT: All right, Detective,
11 please wait outside.

12 THE WITNESS: Yes, sir.

13 THE COURT: And you're subject to
14 recall. Do not discuss your testimony with
15 anybody else.

16 (WITNESS EXCUSED.)

17 MS. WRIGHT: Detective Wanik is the
18 last Commonwealth witness.

19 THE COURT: All right. Detective
20 Wanik.

21 All right, Detective, please come up
22 and have a seat in the witness chair.

1 WHEREUPON,

2 DETECTIVE SCOTT WANIK

3 was called for examination by Counsel for the
4 Commonwealth and, having first been duly sworn,
5 assumed the witness stand, was examined and
6 testified as follows.

7 DIRECT EXAMINATION

8 BY MS. WRIGHT:

9 Q Please state your full name for the
10 Court.

11 A Scott Wanik.

12 Q Detective Wanik, what do you do for a
13 living?

14 A I'm a detective with Arlington County
15 Police Department.

16 Q And how long have you been employed
17 with the Arlington County Police Department?

18 A Twenty-one years.

19 Q And do you have a special assignment?

20 A I work for the Criminal Investigations
21 Division, Homeland Security Section.

22 Q Okay. How long have you been doing

1 that?

2 A Since April of last year.

3 Q And on February 9th of this year, did
4 you learn about an incident pertaining to an
5 individual by the name of Curtis Wells?

6 A I did.

7 Q And on that date, did you begin to
8 investigate that individual?

9 A I did.

10 Q And after that investigation, on
11 February 18th, did you ultimately arrest the
12 Defendant?

13 A I did.

14 Q And do you see the Defendant anywhere
15 here in the courtroom today?

16 A I do. He's on the monitor.

17 Q All right.

18 MR. CLARKE: Let the record reflect
19 that the witness has not immediately identified
20 my client. After several people in the courtroom
21 pointed to the monitor, that's when he did.

22 THE COURT: Well, no, no, no. No, no,

1 no. Mr. Clarke, you do not decide what to
2 reflect. You can ask him questions on that.

3 MR. CLARKE: Okay.

4 THE COURT: And he looked around and
5 he looked up at the monitor. He didn't see a
6 monitor. There's no monitor in front of this
7 witness, as he's testifying. As he looks out, he
8 can see the Commonwealth in the back of the
9 courtroom. The only monitor that he can see is
10 behind him. So, it's not apparently visible to
11 him, but he did look at it and identify Mr.
12 Wells. But you can certainly go into, ask him if
13 he can identify Mr. Wells.

14 MR. CLARKE: Okay, Your Honor.

15 THE COURT: But he did identify Mr.
16 Wells.

17 Go ahead.

18 MS. WRIGHT: Thank you, Your Honor.

19 BY MS. WRIGHT:

20 Q After taking the Defendant into
21 custody, did you interview him?

22 A I did.

1 Q And prior to doing that interview, did
2 you Mirandize the Defendant?

3 A I did.

4 Q And did he indicate that he understood
5 his rights?

6 A He did.

7 Q And did anyone else interview the
8 Defendant with you?

9 A Yes.

10 Q Who else was in the room?

11 A George Ziragronis (phonetic) which --
12 MR. CLARKE: I'm going to object. I'm
13 going to object to this line of questioning, Your
14 Honor. This bears no relevance to whether or not
15 he actually took that warrant out. He took that
16 warrant out, I believe it was February.

17 THE COURT: Well, I'm going to
18 overrule the objection. She's just asking who
19 was present when she Mirandized; if he Mirandized
20 the Defendant, who was present during his
21 statement. So, the objection is overruled.

22 Maybe there's another objection

1 coming, but you can answer that question.

2 BY MS. WRIGHT:

3 Q Who else was in the room with you?

4 A Task Force Officer George, I'm just
5 going to say "Z".

6 Q I understand.

7 A I don't want to butcher his last name.
8 But he was with me from the FBI Joint Terrorism
9 Task Force.

10 Q Thank you.

11 THE COURT: And I will just note, the
12 Court will take, has taken judicial notice,
13 there's a warrant of arrest that has Arresting
14 Officer Wanik's name on it. And I believe he
15 testified that he did arrest Mr. Wells.

16 MR. CLARKE: Correct, Your Honor. But
17 what they're about to testify to is an event that
18 happened four days after the warrant itself.

19 THE COURT: All right. Well, we
20 haven't gotten there. I have no idea what
21 they're going to ask. So, let's just take it one
22 step at a time.

1 MS. WRIGHT: Okay.

2 BY MS. WRIGHT:

3 Q Was there ever a point in that
4 interview when you discussed with the Defendant a
5 rifle plate that was found in a vehicle on
6 February 7th --

7 MR. CLARKE: Again, Your Honor, I'm
8 objecting to the fact that this interview
9 happened four days after --

10 THE COURT: Well, I need some grounds.
11 What's the grounds for the objection? Is it
12 relevance?

13 MR. CLARKE: The objection is
14 relevance, relevancy, Your Honor. It's been --

15 THE COURT: Okay. Hold on. You don't
16 have to keep going. I understand the relevancy.

17 How is it relevant?

18 MS. WRIGHT: Your Honor, Detective
19 Wanik interviewed the Defendant and the Defendant
20 made statements regarding the rifle plate that
21 was found in his possession on February 7th,
22 which is the subject of the warrant. This is a

1 Franks hearing.

2 THE COURT: All right.

3 MS. WRIGHT: So --

4 THE COURT: Well, that is --

5 MR. CLARKE: What the Commonwealth is
6 not telling the Court is the date that this
7 particular interview occurred.

8 THE COURT: Well, so wait a minute.

9 MS. WRIGHT: I did tell the --

10 THE COURT: So, hold on. Hold on.

11 So, what you're telling me, Mr.

12 Clarke, is if he, Detective Wanik, interviewed
13 Mr. Wells on a date other than the 9th of
14 February, that the interview, the statements that
15 he made wouldn't be relevant?

16 MR. CLARKE: No, Your Honor. What
17 we're --

18 THE COURT: Okay. Then, what's the --
19 tell me the relevance -- why it's not relevant.

20 MR. CLARKE: Because, Your Honor,
21 we're here on a preliminary hearing as to the
22 warrant that was sworn out on February 14th of

1 this year. What they're getting ready to testify
2 to is an interview that happened subsequently
3 after he was arrested on February 18th. So, for
4 preliminary hearing purposes, all we're trying to
5 figure out is whether or not Mr. Wells is the
6 person that committed a crime in order for them
7 to be able to --

8 THE COURT: So far, you haven't told
9 me anything that I don't know.

10 MR. CLARKE: Correct.

11 THE COURT: So, Mr. Clarke, so if
12 somebody commits a murder today, and the warrant
13 is issued in a week, and the person's not
14 arrested for six months and makes a statement,
15 are you telling me that those statements that
16 that person made six months after the alleged
17 offense are not admissible?

18 MR. CLARKE: No, Your Honor.

19 THE COURT: Then, I don't understand
20 your argument at all.

21 MR. CLARKE: My argument --

22 THE COURT: So, make it concise and

1 short. And know that I know what a preliminary
2 hearing is and I know what the elements of the
3 possession of stolen property are.

4 So, go ahead.

5 MR. CLARKE: Your Honor, what the
6 Court should not consider is anything that
7 happens after the arrest. Now, if we're in
8 Circuit Court, that's a different, that's a
9 different --

10 THE COURT: Why?

11 MR. CLARKE: Because we're trying to
12 figure out --

13 THE COURT: No, no, I know what we're
14 trying to figure out. But why shouldn't the
15 Court consider any of those events between the
16 9th of February and the 18th of February, 2020?

17 MR. CLARKE: No, I am asking the Court
18 to consider that. What I'm saying is that this
19 interview happened after that.

20 THE COURT: So what? I don't
21 understand. I mean, your argument that -- I mean
22 with all due respect -- your argument doesn't

1 hold any water. Based on what you're telling me,
2 that's my response. It's, so what? Legally --
3 legally, it's a matter of law -- what rule of
4 evidence is going to keep that out and why isn't
5 it relevant when he's discussing -- specifically,
6 the question was about this alleged plate that
7 was found in his vehicle, allegedly. So, I don't
8 understand the basis of -- I mean, I'm sorry if
9 I'm thick-headed, but I don't get it.

10 So, go ahead and try again, please.

11 MR. CLARKE: Your Honor, the basis is
12 that we're here on a preliminary hearing.

13 THE COURT: I get it. Show probable
14 cause that was felony was committed --

15 MR. CLARKE: Exactly.

16 THE COURT: -- and this gentleman
17 committed the offense.

18 MR. CLARKE: Exactly. Thank you, Your
19 Honor.

20 THE COURT: The evidence that I have
21 thus far is that he was there in front of this
22 gate. I don't know why he was initially stopped,

1 but he was. There was testimony that he said he
2 had a gun or a gun was found in the middle of the
3 console. They started to question him about
4 that. They searched the vehicle. They found
5 that plate that's in evidence.

6 MR. CLARKE: Correct.

7 THE COURT: A gentleman has come in
8 and testified that his investigation revealed
9 that the plate, medium Ceradyne plate with the
10 serial number on the warrant was sold to the Army
11 on a certain date. His understanding is that, if
12 this plate is given to you when you're in the
13 Army, then you have to give it back; that he
14 doesn't know of any circumstances that you are
15 supposed to be able to keep the plate.

16 Now the question is from the
17 Commonwealth Attorney, did this detective
18 question the Defendant regarding the plate? Why
19 is that not relevant?

20 MR. CLARKE: So, one, Your Honor, this
21 happened on Tuesday, February 18th. We're here
22 just looking at the arrest warrant, right? Your

1 Honor is trying to consider, Your Honor is trying
2 to consider -- what we're trying to do, and I'm
3 trying to break this down as simply as possible,
4 Your Honor, but what we're trying to do is we're
5 trying to ascertain on this warrant --

6 THE COURT: Well -- go ahead. I'm
7 trying to ascertain, right?

8 MR. CLARKE: Yes.

9 THE COURT: Go ahead.

10 MR. CLARKE: On this warrant arrest --

11 THE COURT: Right.

12 MR. CLARKE: -- right? --

13 THE COURT: Yes. February 9th, 2020,
14 that he was in possession of this plate, and the
15 plate was stolen. And he knew it was stolen.

16 MR. CLARKE: Right.

17 THE COURT: Okay.

18 MR. CLARKE: But the facts and
19 circumstances surrounding that particular
20 warrant, right?

21 THE COURT: Why do you keep getting
22 hung up on the warrant? Yes, we're here on the

1 warrant. I get it.

2 MR. CLARKE: All right. That's
3 correct.

4 THE COURT: That's the only thing we
5 could be here on.

6 MR. CLARKE: But Your Honor is trying
7 to consider things that happened after the fact
8 that the detective already made the decision to
9 arrest him.

10 THE COURT: I haven't heard that yet.

11 MR. CLARKE: But he was already, he
12 was already arrested at the time that this
13 interview was provided.

14 THE COURT: Your own motion says he
15 wasn't under arrest yet; that they kind of
16 tricked him into coming in and talking about it.

17 MR. CLARKE: That's --

18 THE COURT: And then, before he left,
19 they arrested him.

20 MR. CLARKE: That is what they did,
21 yes, but that's not what, that's not what
22 happened. So, when he, when he's --

1 THE COURT: Overruled. Oh, no, I'm
2 not going to spend another 20 -- with all due
3 respect, I don't have -- your motion does not
4 have any merit to it. I don't see the merit at
5 all.

6 MR. CLARKE: I was reflecting this
7 agreement --

8 THE COURT: I understand that, and
9 that's --

10 MR. CLARKE: And I'm going to raise
11 the same objection as it becomes clear to Your
12 Honor that he was already --

13 THE COURT: All right. Go ahead.
14 Next question.

15 BY MS. WRIGHT:

16 Q Did there come a point in the
17 interview when the Defendant discussed the rifle
18 plate that was located in his car on February
19 9th?

20 A Yes.

21 Q Okay. And initially, how did the
22 Defendant indicate to you he came in possession

1 of that rifle plate?

2 A He initially told me that he had
3 purchased it from a white male who he thought was
4 a Marine at an airsoft convention or an airsoft
5 event somewhere nearby.

6 THE COURT: All right. And what date
7 was the interview? Was there more than one
8 interview?

9 THE WITNESS: There's one interview.

10 THE COURT: And what date was that?

11 THE WITNESS: The same date as the
12 arrest.

13 MS. WRIGHT: February 18th.

14 THE COURT: February 18th?

15 MS. WRIGHT: Yes.

16 THE COURT: Okay.

17 BY MS. WRIGHT:

18 Q And during your interview, did the
19 Defendant also explain his time of service in the
20 United States Army?

21 A Yes.

22 Q And did he explain that he was no

1 longer in the Army?

2 A Yes.

3 Q And explain to the Court how he
4 indicated his time of service ended.

5 A He told me that he was discharged.
6 There were a series of disciplinary issues that
7 led to his discharge under -- it was honorable
8 under general conditions, or something to that
9 effect.

10 Q And did he also explain during this
11 interview this outprocessing with the Army?

12 A Yes, he did.

13 Q And how did he explain that happened?

14 A He said that, when he was outprocessed
15 through the CIF, the Central Issue Facility, that
16 he turned in all his issued equipment and was
17 given a clean bill where he didn't owe anything
18 for any missing property.

19 Q And did he explain that he was
20 required to turn in all of his Army-issued
21 equipment?

22 A He indicated to me that he was aware

1 of that. We talked about that --

2 Q Okay.

3 A -- several times during the interview.

4 Q And what specifically was he aware of?

5 A That you can't keep military-issued
6 armor and weapons, as two examples, but you can't
7 keep military-issued equipment after you
8 discharge; you have to turn that stuff back in.

9 Q Okay. And did he indicate that he
10 turned in all of the equipment that was issued to
11 him personally?

12 A Yes. Yes, he did.

13 Q Okay. And did he explain to you how
14 his barracks were ultimately packed when he was
15 discharged from the Army?

16 THE COURT: How what was ultimately
17 packed?

18 MS. WRIGHT: His barracks where he
19 lived.

20 THE COURT: Barracks? Okay. Uh-hum.

21 THE WITNESS: He said that during his
22 outprocessing he was trying to get things signed;

1 he was running from office to office getting a
2 piece of paper, you know, paperwork signed. And
3 while he was doing that, his squad members were
4 removing his personal property from his room and
5 putting it onto some type of moving vehicle.

6 BY MS. WRIGHT:

7 Q And after he explained the
8 outprocessing to you, did he, then, change his
9 story in relation to how he came into possession
10 of this rifle plate?

11 A Yes.

12 Q And what was the second version of
13 events that he explained to you?

14 A After we went around and around a
15 couple of times, he confessed to having taken
16 that plate from someone on Fort Myer. He said
17 that it did belong to Fort Myer. He recognized
18 that it was a serialized piece of issued
19 equipment from Fort Myer, and he indicated that
20 he took it from someone in the barracks. Yeah.

21 Q And did he ultimately indicate that he
22 knew whether or not he was supposed to be in

1 possession of that item?

2 A Yes, he knew that he was not supposed
3 to be in possession of that.

4 MS. WRIGHT: Your Honor, that's all I
5 have for the preliminary hearing, but I would ask
6 additional questions for the bond aspect --

7 THE COURT: Go ahead.

8 MS. WRIGHT: -- when Your Honor wants
9 to take that up.

10 THE COURT: You want to be heard on
11 that issue, correct?

12 MR. CLARKE: Correct.

13 THE COURT: Okay. Go ahead.

14 MS. WRIGHT: All right.

15 BY MS. WRIGHT:

16 Q And while you were speaking with the
17 Defendant, did he also explain to you how he
18 would attack Fort Myer, if given the opportunity?

19 A Yes.

20 Q And how did he lead up to those
21 questions? How did that come out like that?

22 A It was sort of on his own.

1 Q Okay.

2 A Yeah.

3 Q What, if anything, did he explain to
4 you?

5 A I have it transcribed in my notes. I
6 mean, I can read it to you or I can summarize it.

7 THE COURT: So, just Mr. Clarke filed
8 a bond motion that we took up earlier. But, Mr.
9 Clarke, you have a section that's reportedly from
10 the transcript that's kind of set apart single-
11 spaced?

12 MR. CLARKE: Yes, yes.

13 THE COURT: Do you have any objection
14 to the Defendant -- I mean, sorry -- to Detective
15 Wanik looking at that?

16 MR. CLARKE: Correct. It's taken from
17 his notes. So, that --

18 THE COURT: And do you have -- it
19 might be easier for him to look at that. I've
20 re-read this as we've been sitting here. Any
21 objection to him looking at that?

22 MR. CLARKE: No, thank you, Your

1 Honor.

2 THE COURT: Do you want to take a look
3 at this?

4 THE WITNESS: Yes.

5 THE COURT: It's from the --

6 THE WITNESS: Yes, Your Honor.

7 THE COURT: -- motion filed by defense
8 counsel. If you want to just look at the area
9 that's -- well, you can see where it's indented.
10 I'll just direct your attention to the indented
11 portion.

12 (PAUSE.)

13 THE WITNESS: This looks like it's
14 taken right from my notes, Your Honor.

15 THE COURT: Okay. All right. So, is
16 there any more that you would need to review
17 before you can answer the Commonwealth's
18 question?

19 THE WITNESS: No, Your Honor.

20 THE COURT: Okay. Go ahead and ask
21 your question.

22 BY MS. WRIGHT:

1 Q Can you please explain to the Court
2 what the Defendant told you how he would attack
3 the base?

4 A He told me that, I mean, he told me
5 that he would, if he were to -- he didn't say
6 that he would, but he said if he were to, he
7 would -- and he outlined the location that he
8 would make entry on the base because it would be
9 closer to where the hypothetical targets might
10 be, the equipment that he would carry, the way he
11 would conceal it, what he would wear, the
12 armament he would choose, the particular, you
13 know, face covering that he would choose, what
14 boots he would wear, the route he would take, and
15 talking about, generally, how a person to be
16 successful would engage that target.

17 Q And did he also -- did you also
18 mention to him the list of additional tactical
19 equipment that was found in his vehicle?

20 A I did.

21 Q And explain to the Court what that
22 list was.

1 A That list, you know, was a list of
2 things needed yet to buy for -- the quotation on
3 there was "for an op". And it was a list of
4 additional weapons and equipment and materials
5 needed to carry out an op.

6 Q And what did Defendant say about that
7 list?

8 A He said that that was something that
9 he wanted to -- that list was to be fulfilled
10 because he was concerned for his own safety, that
11 someone might, you know, try to burglarize his
12 house wearing body armor. He might be in a place
13 where there is a shooting, and then, he could
14 just, you know, have that equipment ready to use
15 for that purpose.

16 Q And did he also indicate to you what
17 his potential jobs in the future were going to be
18 or what he wanted his job to be in the future?

19 A He said that he wanted to be a
20 contractor, a security contractor. I asked him
21 to specify what exactly he meant by that. And to
22 contract to the government to provide security

1 for dignitaries overseas on military bases, and
2 so on and so forth.

3 Q And did he indicate to you that he had
4 training for that?

5 A He, yes, he said that he was
6 continuing to train himself for that. He
7 attended -- he talked about a Sheepdog Response
8 school that he intended to attend taught by Tim
9 Kennedy, who's a former Green Beret.

10 And in his notes that were recovered
11 from the vehicle, there was sort of a training
12 schedule that he wrote that pretty much took the
13 day from 0600 all the way 'til, you know, after
14 the sun went down, what he was going to do every
15 20-30 minutes out of the day to train for these
16 types of, these types of things.

17 Q Okay. And did he also talk to you
18 about airsofting?

19 A Yes.

20 Q And did he indicate to you that it was
21 a hobby of his?

22 A He did.

1 Q And explain to the Court what he
2 explained to you about that thought.

3 A That the equipment and materials and
4 the training that he is attempting to procure and
5 get for himself, that they are for airsoft.
6 That's his hobby. It's sort of a play, a play
7 war game type of thing where BBs come out of the
8 gun and you run around in a field.

9 Q And did he mention a particular field
10 that he does airsoft on?

11 A He did, but I don't recall the name of
12 it right now.

13 Q Okay. And is that also the same field
14 where he first indicated that he purchased --

15 A Yes.

16 Q -- the plate from?

17 A Yes.

18 MS. WRIGHT: I have no further
19 questions, Your Honor.

20 THE COURT: Before you cross-examine,
21 let me just -- I want to be able to understand
22 something that's going to go to your argument.

1 So, are you the lead detective in this
2 matter?

3 THE WITNESS: I am.

4 THE COURT: So, after the 9th of
5 February, what sort of investigation did you
6 conduct in this matter?

7 THE WITNESS: Your Honor --

8 THE COURT: You don't have to go into
9 the details, but did you talk to the other people
10 involved and what did you do in that matter?

11 THE WITNESS: On the 10th, I checked
12 the serial -- on the 10th, I reviewed all the
13 case materials. It was the day after I received
14 this, I received this case. I reviewed all the
15 case materials and I went down to Property to
16 take a look at the items that were taken from the
17 vehicle.

18 At that time, I saw two items that
19 were suspicious. One was the serialized plate
20 with the U.S. Army stamping on it, and the other
21 one was a Glock pistol that had a "U.S." at the
22 end of the serial number, which indicated at

1 least at one point it had been a U.S. Government
2 item. So, that gun, I ordered a trace on that
3 from the ATF to see, find out who the true owner
4 should be. And then, I contacted Detective Keith
5 Shepherd over at Fort Myer to ask him about the
6 plate and see if he could figure out some kind of
7 paper trail for that to prove that it was, in
8 fact, the Army's or not, so we knew whether or
9 not a crime had occurred.

10 After that point, the next day, after
11 reviewing all the case materials, there was
12 enough information in the report about Mr. Wells,
13 his behavior on the day of the stop, the items
14 that were in his car, his responses to some of
15 the officers' questions that he was asked on the
16 street the day he was stopped on February the
17 9th, the fact that he had armor-piercing
18 ammunition loaded into 30-round magazines. There
19 were five fully-loaded magazines for the rifle.
20 The rifle was loaded in the trunk.

21 He had body armor. He had masks. He
22 had gloves with hard knuckles on them. He had

1 BDUs like military uniforms. He had a variety of
2 different patches, and he was in possession of an
3 access card that at one point allowed him access
4 into Fort Myer.

5 This and the fact that he had been
6 adversely separated from the military, and his
7 chain of command that separated him was still
8 working on Fort Myer, and his proximity to Fort
9 Myer, sitting outside the gate, with evasive
10 questions, or answers to the officers who talked
11 to him that day about why exactly he was there.

12 So, all of that led me to file a
13 report that goes to the federal government and
14 other jurisdictions, just to make them aware. So
15 that, if he's doing this in other places, I won't
16 know about it since I'm just in Arlington. If I
17 send that out, then if he's doing this in other
18 places and he's on anybody else's radar, we can
19 sort of get together on that and figure out what
20 we're going to do.

21 THE COURT: But, in relation to this,
22 to the rifle plate --

1 THE WITNESS: Yes?

2 THE COURT: -- and you followed up
3 with Detective Shepherd.

4 THE WITNESS: Uh-hum.

5 THE COURT: And based on the
6 information you collected, did you take, did you
7 go to a magistrate?

8 THE WITNESS: I did.

9 THE COURT: And where was that
10 magistrate?

11 THE WITNESS: Arlington County.

12 THE COURT: And did the magistrate
13 place you under oath?

14 THE WITNESS: Yes.

15 THE COURT: And did you, then, tell
16 the magistrate what your investigation revealed?

17 THE WITNESS: Yes, Your Honor.

18 THE COURT: And then, the magistrate
19 then issued this warrant?

20 THE WITNESS: Yes, Your Honor.

21 THE COURT: That's the warrant dated
22 the 14th of February?

1 THE WITNESS: Yes, Your Honor.

2 THE COURT: And when you questioned
3 Mr. Wells -- well, part of the purposes -- I'm
4 sure you had many reasons for questioning him
5 based on what you've told me, but one of them was
6 either to confirm or deny the information that
7 you had received regarding the possession of that
8 rifle plate?

9 THE WITNESS: Yes, Your Honor.

10 THE COURT: And then, he made some
11 statements to you --

12 THE WITNESS: He did, Your Honor.

13 THE COURT: -- regarding the
14 statements that Commonwealth Attorney brought up?

15 THE WITNESS: Yes, Your Honor.

16 THE COURT: So, Mr. Robinson
17 (phonetic), knowing -- Mr. Clarke, knowing that,
18 I think your objection is that this officer had
19 made a determination that was an extrajudicial
20 determination that the arrest warrant should
21 issue. And that he went and got the warrant.
22 Some days later, he was able to execute the

1 warrant on a ruse to get Mr. Wells to come and
2 talk to him. Therefore, everything that
3 happened, everything that was stated to the
4 officer should not be considered as to whether
5 this is a valid warrant. Is that your argument?

6 MR. CLARKE: That is Your Honor.

7 THE COURT: Okay. All right. Again,
8 the Court is not persuaded by that argument
9 because I am in a different position now. It
10 sometimes happens that the officer or detective,
11 the investigating team, does their investigation
12 and, then, they come into court and they have
13 other information they want the court to consider
14 that happened after they've executed the warrant
15 to support their hypothesis, their reasoning to
16 believe that a crime was considered. And this
17 Court is still not convinced, based on even that
18 evidence that comes in, that the Commonwealth
19 wants to come in, that there still isn't enough
20 for probable cause.

21 However, this Court has to make a
22 determination based on all of the evidence, not

1 only what was the investigation that was
2 revealed, but, then, when the Defendant was then
3 brought in and makes statements about what he
4 allegedly was thinking or doing regarding this
5 plate, because those statements are relevant to
6 that time period when he was allegedly in
7 possession of this, of this rifle plate.

8 So, I understand your argument.
9 However, I don't believe that -- I mean the
10 Court's not of the opinion that it's improper for
11 the Court making a judicial determination now
12 regarding what the officer did leading up to the
13 warrant, and then, talking to Mr. Wells. Because
14 in other matters you could easily conceive that,
15 after a warrant was issued, the investigation
16 continues and that other things might have
17 happened.

18 For instance, they might put a wiretap
19 where they're listening and they're confirming,
20 hey, everything I thought was right, or
21 everything I thought was wrong. Or they put a
22 surveillance on somebody and they're going to

1 wait for them to do a certain thing before they
2 serve the warrant because they have information
3 that this person might be going, for instance, to
4 go meet with an undercover or an unwitting in a
5 drug case who's going to sell him cocaine. And
6 that extra piece of evidence helps their case,
7 say, in a conspiracy or in a -- yes, in a
8 conspiracy charge.

9 So, I'm going to overrule your
10 objection. I do continue to believe that what
11 was said by, allegedly said by Mr. Wells during
12 this interview is relevant for today's probable
13 cause hearing.

14 So, I wanted to get that part out of
15 the way, so we didn't have to have a long
16 question. But feel free, again, to ask him
17 whatever questions you deem as necessary for your
18 case. Okay?

19 MR. CLARKE: Thank you. Thank you,
20 Your Honor.

21 CROSS-EXAMINATION

22 BY MR. CLARKE:

1 Q Detective Wanik, I'm going to start on
2 February 10th of your investigation.

3 A Uh-hum.

4 Q And you wrote in your notes that you
5 suspected that the pistol might have been stolen?

6 A Correct.

7 Q And why is that?

8 A Based on my experience, the U.S.
9 serial number on the back of the -- addition on
10 the back of the serial indicated it was a U.S.
11 Government-issued weapon, and --

12 Q So --

13 A Yeah?

14 Q So, based on the fact that it says
15 "U.S." on it?

16 A Yeah.

17 Q Okay. And the same for the plate,
18 correct, based on the fact that it says "U.S." on
19 it?

20 A Says "U.S." and it's serialized, yeah.

21 Q Okay.

22 A Also, I served on Fort Myer. I served

1 eight years in the Army and I served on Fort Myer
2 for three of those years. And I'm aware of the
3 fact that, you know, those things tend not to
4 leave the Army.

5 Q "Tend not to leave"?

6 A They don't. They don't leave the
7 Army.

8 Q But the firearm, later on in your
9 investigation --

10 A Uh-hum.

11 Q -- you realized that it was --

12 A It took a while because the first
13 trace that I did on the firearm came back the
14 last ownership was U.S. Customs Service on Fort
15 Benning back in 1998. So, the trace that I
16 initially got a couple of days after I made the
17 request was that the gun was issued from Glock in
18 Smyrna, Georgia, to Fort Benning, and then, it
19 ended there. So, there was no further
20 transactions after that. That also led to me
21 being very suspicious about that, since Mr. Wells
22 had been stationed at Fort Benning, as all

1 infantry soldiers are, for at least 15 weeks.

2 So, I followed up with that --

3 Q I'm sorry.

4 A Yeah.

5 Q Just to be clear, you are aware that

6 Mr. Wells was born in 1998, correct?

7 A Oh, I knew that, but that's when the
8 gun got there.

9 Q Oh.

10 A Yeah.

11 Q Okay. And also, for the rifle plate,
12 you were aware that that was issued to the Army
13 in 2011?

14 A I became aware of that, yes, through
15 the receipts.

16 Q So, it was purchased by the Army --

17 A Yeah.

18 Q -- in 2011?

19 A Yes.

20 Q And that there was just no, there was
21 just no -- once it reached the base, not Fort
22 Myer, but once it reached the base, they don't

1 track it anymore?

2 A That's my understanding.

3 Q So, at that point, you still just
4 didn't know how this particular plate came into
5 the possession of Mr. Wells, correct? At that
6 point --

7 A At that point in time, I was not sure
8 how Mr. Wells had gotten the plate, but there was
9 -- after there was some suspicion, based on the
10 information that I received from Detective
11 Shepherd, because there was this open case on
12 Fort Myer back in March of 2019.

13 Q Well, I'm just, well, I'm just, you
14 know --

15 A Yeah.

16 Q -- just focusing on at that point.

17 A Okay.

18 THE COURT: Well, I mean, you asked
19 him the question. So, I think you have to let
20 him answer it.

21 BY MR. CLARKE:

22 Q But I believe that that comes --

1 didn't that come later on, that other date?

2 A I don't understand the question. Are
3 you asking me why I thought the plate was stolen?

4 Q I'm asking you specifically about it
5 being tracked from 2011 and, then, what happened
6 to it after that.

7 A The purchase orders took some -- the
8 purchase orders and the shipping receipts took
9 some time to get. It was, it was a couple of
10 days.

11 Q Okay.

12 A I don't, I don't recall exactly which
13 day, but, I mean, we -- there was suspicion, I
14 think reasonable suspicion, that the plates were
15 stolen. And it wasn't until we received the
16 purchase order from Ceradyne to the Army, and
17 then, we showed the shipping transfer receipts --
18 I was shown the shipping transfer receipts that
19 showed that that plate went from Ceradyne to
20 Aberdeen Proving Ground in Maryland, and then, to
21 Fort Myer.

22 Q And --

1 A And then, once they get to Fort
2 Myer --

3 (Simultaneous speaking)

4 A Yeah.

5 Q You found out from Detective
6 Shepherd --

7 A Correct.

8 Q -- that it went from Aberdeen Proving
9 Grounds to Fort Myer?

10 A That's my recollection of the receipts
11 that I read, yes.

12 Q And was this told to you by Detective
13 Shepherd or did you actually see the receipts?

14 A I saw the receipts. He emailed me
15 copies of the receipts.

16 Q And you provided that to the
17 Commonwealth?

18 A It's in evidence. It's in evidence.

19 Q And I'm going to draw your attention
20 to February 14th. On February 14th, Mr. Wells
21 contacted you?

22 A He did.

1 Q And he contacted you and he asked
2 about the status of the return of the property?

3 A He did.

4 Q And at this point you had already
5 confirmed that the two firearms that were found
6 were legally purchased?

7 A No, just the one, the rifle. We
8 suspected it. We were still waiting for the
9 traces to come back. They take about two weeks.

10 Q I'm sorry, you're talking about on
11 February 14th?

12 A On February 14th, I knew that there
13 was a trace that came back for the rifle, and it
14 appeared to be a lawful purchase from a gun show
15 in Chantilly.

16 Q Okay. That was my question, was
17 whether or not you confirmed that with a
18 firearm --

19 A I mean, you're using the word
20 "confirm". It takes time to confirm. I got a
21 trace that said that that's probably what
22 happened. So, sometimes, like in the case of the

1 Glock pistol, you have to ask for follow-on
2 traces. So, they have to go further.

3 Like, for example, with the Glock,
4 when they told me that the last time that that
5 gun had changed hands was in 1998 from Glock to
6 Fort Benning, I didn't just stop there. I kept
7 asking for more traces because that sounded
8 suspicious, and it would have led me, you know,
9 in a different path.

10 So, I kept asking for -- so, they take
11 a little bit of time to come in. So, on the
12 14th, there was limited information about the two
13 rifles. But, from what I recall, the rifle, or
14 rather the two firearms, from what I recall, the
15 rifle looked more legit than the Glock.

16 Q Okay. So, have you confirmed at any
17 time that the handgun that was found with U.S.
18 plates was legally purchased?

19 A It appears that way, yes.

20 Q So, you don't believe that receipt
21 that you saw or how -- you said --

22 A Based on the initial trace, it wasn't

1 until -- so, that firearm, after Fort Benning,
2 was transferred to another, it was transferred
3 out to another federal agency for, if my memory
4 serves, it was a museum somewhere. And from
5 there, it got in the hands of a private dealer, a
6 private individual, who I believe Wells purchased
7 that firearm from the private individual online.
8 And I believe they were in Maryland.

9 And then, in order for a Virginia
10 resident to obtain ownership of that gun, it's
11 got to be transferred to a federal firearms
12 licensee in Virginia. The licensee was a gun
13 store in Vienna, which went out of business in
14 2015. The fact that it went out of business in
15 2015, you know, that forced me to contact the ATF
16 and look at microfiche files for the firearms
17 transaction record. That takes a little bit more
18 time.

19 So, after we -- I did, I was able to
20 recover the firearms transaction record for that
21 transaction between Wells and the Vienna gun
22 store, and that looked legit to me.

1 Q Okay.

2 A But that was a couple of, that was a
3 couple of weeks it took to do that.

4 Q Okay.

5 A Yeah.

6 Q And going back to February 12th, you
7 had a conversation with Mr. Wells' former
8 roommate?

9 A I did.

10 Q And that's Devon Jason Dotson?

11 A Yes.

12 Q Okay. And he told you -- and I'm
13 sorry, was this the same, was this the same
14 Dotson that you later on spoke to Mr. Wells
15 about?

16 A Yes. Yes, it is.

17 Q Okay. And Mr. Wells told you what
18 about Mr. Dotson and his problem?

19 A I asked Mr. Wells if it was Dotson's
20 plate. And Mr. Wells says -- he kind of walked
21 his way through it. He said: No. Well, it
22 might be. Yeah, it probably is. Yeah, it

1 probably is. He said -- I'm paraphrasing, but he
2 said something like that.

3 So, I said, would you be willing to
4 write an apology letter? And he agreed to do
5 that, and he wrote the apology letter to Dotson.

6 Q And have you subsequently spoken to
7 Mr. Dotson?

8 A I didn't solicit anything from Mr.
9 Dotson, but I overheard him speaking about his
10 gear. My understanding, when I talked with him
11 on the, I believe it was the 12th, when I spoke
12 to him on the 12th, my understanding is that he
13 was that he had lost his plate carrier. And
14 speaking to him -- listening to him speak out
15 there, he said that he is only missing parts of
16 his plate carrier, not the plate.

17 Q So, this plate was not Mr. Dotson's?

18 A According to what Mr. Dotson said out
19 in the ready area today, no.

20 Q So, then, the explanation that Mr.
21 Wells gave you about writing this apology
22 letter --

1 A Right.

2 Q -- that wasn't correct?

3 A There's two -- so, and then, we
4 recently learned that there's two Dotsons in the
5 platoon. And I know that this, you know, one is
6 D-O-D. We had D-O-T-S-O-N out there, and there's
7 D-O-D-S-O-N. So, I don't know what was in Mr.
8 Wells' mind when he wrote an apology letter to
9 Dotson.

10 Q You asked him to write the apology?

11 A I did. I did, but I don't know what
12 was in his mind, right?

13 Q Okay.

14 A So, when he writes that to -- and I
15 just learned that today, that there's another
16 Dotson. And I haven't fleshed that out yet.

17 Q Okay. So, it's possible that Mr.
18 Wells was telling you the truth initially with
19 his first explanation of how he received that
20 plate?

21 A That's not possible, not in my mind.

22 Q But you just still to this day don't

1 know how he came in possession of that plate?

2 A Well, I know that that plate belongs
3 to the Army and I know it was sent to Fort Myer.
4 I know that Mr. Wells was assigned to Fort Myer
5 and present. I know he had access to those, and
6 I know that when he was stopped on February 9th
7 by the other officers, I know he was in
8 possession of it, and that's what I know.

9 Q So, you said you know that he had
10 access to them. What do you mean? Did he work
11 in the equipment room while he was there?

12 A So, there -- yeah, well, all the, all
13 the soldiers have their gear and they are in
14 their rooms, and he was roommates with Dotson.
15 So, I know he had, he had access to those.

16 Q So, you've already dispelled the fact
17 that he, that --

18 A I haven't dispelled anything. I'm
19 just telling you what Dotson has told me on two
20 different occasions.

21 Q Okay.

22 THE COURT: Mr. Clarke, you need to

1 keep moving on --

2 MR. CLARKE: Yes, I am going to, Your
3 Honor.

4 THE COURT: -- because I do have a
5 2:00 docket.

6 MR. CLARKE: I understand, Your Honor.

7 THE COURT: And you know I'm not going
8 to make any guilt or innocence decisions today.

9 MR. CLARKE: I understand, Your Honor.
10 Thank you.

11 BY MR. CLARKE:

12 Q And I wanted to take you to February
13 18th.

14 A Mm-hmm.

15 Q You told Mr. Wells for him to come
16 down to receive his firearms?

17 A I did.

18 Q Okay. You didn't tell him at that
19 point that he was going to be arrested when he
20 arrived?

21 A No, I did not.

22 Q So, you did not tell him the truth on

1 that day?

2 A Well, I -- yeah, I guess that's fair.

3 Q Okay. And then, when he came down to
4 -- when he came down, he was immediately
5 arrested, correct?

6 A He was, yeah.

7 Q Okay. And he was told that he was
8 arrested for stolen property?

9 A Yes.

10 Q And that was it?

11 A Yes.

12 Q And the interview that you -- that he
13 gave to you was initially about this stolen
14 property, correct?

15 A Correct.

16 Q And at any point did Mr. Wells -- did
17 you or anyone else tell Mr. Wells that he was
18 under suspicion of possibly wanting to attack
19 Fort Myer? I'm sorry, at this, at the beginning
20 of this interview?

21 A No.

22 Q Okay. And at what point -- oh, I'm

1 sorry.

2 MR. CLARKE: And I'm just going to go
3 to the --- (Inaudible.)

4 THE COURT: Sure.

5 BY MR. CLARKE:

6 Q And you guys -- then, at some point
7 you broke it to him that you feel as though he
8 was going to attack Fort Myer?

9 A I don't -- we didn't bring it up. I
10 mean, that was, that was the other odd thing
11 about it, is he brought up the fact that he
12 could, that he -- he could see how this could all
13 be misconstrued like he's some -- you know, he's
14 feeling like he's some kind of terrorist, I think
15 is what his words were. And then, we offered him
16 an opportunity to just talk about it, you know.

17 Q So, you never said to him that you
18 thought that he was going to -- you never asked
19 him about the items in his car and whether or not
20 he thought he was going to attack --

21 A I did. I asked him about those, yeah.

22 Q Okay. And I'm sorry, because you said

1 that you never brought it up. So --

2 A At the point in the interview that he
3 offered his explanation of how one might attack
4 Fort Myer, no one had -- we hadn't solicited
5 that.

6 Q Not about the attack, but --

7 A Right.

8 Q -- you did, then, alert him that you
9 think he's under suspicion for a possible attack
10 on Fort Myer at that --

11 A During the interview, you know, we had
12 a long talk. And we talked about how -- and he
13 acknowledged, and we -- we discussed at points in
14 the interview how this could look like it's
15 something else. So, part of the interview is to
16 ascertain whether or not, you know, there's more
17 to that.

18 Q Okay. So, you misspoke when you said
19 that he just brought it up on his --

20 A No, I didn't misspoke. At that point
21 in the interview, I don't think we had gotten to
22 it yet. I think he --

1 Q Oh.

2 A -- he just offered it.

3 Q And so --

4 A That was kind of the opener for it,
5 and we kind of discussed it after that.

6 Q Okay. And when he gave this
7 explanation, he says he's very -- he's very
8 clear, he makes it very clear that this is not
9 something that he ever has thought about?

10 A He did say that.

11 Q Several times?

12 A Well -- right, right. Right, he said
13 that, but, like I was stationed there for three
14 years. I never once thought about attacking the
15 base. I never once even hypothesized how one
16 might attack the base. So --

17 Q Have you ever been accused of --

18 THE COURT: Hey, gentlemen, with all
19 due respect to Detective Wanik, he's not on --
20 whatever he might have thought is not relevant to
21 me now, right?

22 MR. CLARKE: Okay.

1 THE COURT: What he -- because he
2 never thought about it doesn't mean anything to
3 Mr. Wells. Okay?

4 THE WITNESS: Sure.

5 MR. CLARKE: Okay.

6 THE COURT: So, let's just stick to
7 what Mr. Wells might have said or not said as far
8 as the bond motion. I have what -- Detective
9 Wanik says that this is accurate, what you
10 quoted.

11 MR. CLARKE: Correct.

12 THE COURT: And I've read it a few
13 times as we've been sitting here. So, if you
14 have more questions about -- it sounds like a
15 three-hour interview.

16 MR. CLARKE: It's three and a half
17 hours, Your Honor.

18 THE COURT: Three and a half hours.

19 MR. CLARKE: But I'm just trying to
20 get more of a full view of what the room looked
21 like --

22 THE COURT: Okay.

1 MR. CLARKE: -- at that point in time.

2 THE COURT: So, with all due respect,
3 Detective, let's just focus on your conversation
4 with Mr. --

5 THE WITNESS: Yes, Your Honor.

6 THE COURT: -- with Mr. Wells and how
7 the conversation progressed. Go ahead.

8 BY MR. CLARKE:

9 Q And at this time, Mr. Wells didn't
10 seem evasive to you about answering the questions
11 about a possible --

12 A He was very forthcoming, yeah.

13 Q And he was almost kind of like matter
14 of fact? He even, as he got to the end and he
15 says, you know, now you know -- because now you
16 know how I would have done it, and if I were to
17 do it, how moronic and stupid that something like
18 that would be; it would be a suicide action?

19 A Right.

20 Q And you subsequently had searched his
21 house, his two vehicles that he has, his
22 motorcycles that he owns?

1 A We didn't -- we didn't search the
2 motorcycles.

3 Q Okay. But you saw that he owns
4 motorcycles?

5 A Yes.

6 Q What kind of motorcycles?

7 A I don't recall.

8 Q Ducatis?

9 A Yeah, Ducatis, sure.

10 Q They're expensive motorcycles.

11 A Okay.

12 Q And then, he has these items as well.

13 So, at that point you didn't bring any
14 additional charges against him?

15 A At that point, no.

16 Q And has your investigation concluded?

17 A I would say, I mean, as far as this
18 charge, this is -- I am concluded.

19 MR. CLARKE: Nothing further, Your
20 Honor.

21 THE COURT: Any redirect?

22 MS. WRIGHT: No, Your Honor.

1 THE COURT: Is he free to go or
2 subject to recall?

3 MS. WRIGHT: He is free to go. That
4 is Commonwealth's evidence.

5 THE COURT: That is Commonwealth's
6 evidence. All right.

7 Detective, you can remain in the
8 courtroom, if you wish.

9 THE WITNESS: Thank you, Your Honor.

10 THE COURT: And if you want to ask
11 your colleagues if they want to come in, you may.

12 And please, before you leave, if I may
13 just ask you, could you pass me the exhibits?

14 THE WITNESS: Yes, Your Honor.

15 THE COURT: Thank you so much.

16 (WITNESS EXCUSED.)

17 THE COURT: All right. Does the
18 defense have any evidence or witnesses you want
19 to call?

20 MR. CLARKE: Just one, Your Honor.
21 Devon Jason Dotson.

22 THE COURT: All right. Is there a Mr.

1 Dotson here?

2 I know I have a 2:00. We don't have
3 any protective orders, but we still have some
4 arraignments, but that's all right.

5 THE CLERK: Your Honor, as for the
6 witness, he has not yet been sworn for testimony.

7 THE COURT: Okay.

8 THE CLERK: Step inside the bar.
9 Raise your right hand to be sworn for testimony.

10 (WITNESS SWORN.)

11 WHEREUPON,

12 DEVON DOTSON
13 was called for examination by Counsel for the
14 Defendant and, having first been duly sworn, was
15 examined and testified as follows:

16 THE COURT: All right. Hello, Mr.
17 Dotson.

18 Right here, sir. There's a chair.

19 THE CLERK: By the window. Come all
20 the way around to your left, to the open area on
21 your left. There's a chair here. Have a seat.
22 Speak into the microphone while you testify, so

1 all parties can hear.

2 THE WITNESS: All right.

3 THE CLERK: Thank you.

4 THE COURT: All right. Mr. Dotson,
5 before you testify, I want you to know you have
6 certain rights. And one of the rights that you
7 have is the right not to incriminate yourself.
8 So, there's been testimony, and there's been an
9 allegation that there was a rifle plate with a
10 certain serial number and that the investigation
11 concluded certain people to believe that it was
12 removed without permission from the possession of
13 the U.S. Army and it was in the possession of a
14 private individual. There's been some testimony
15 that maybe that's yours or maybe it's somebody
16 else's, or I'm not sure.

17 But you have a right, sir -- I just
18 want to make sure that this gentleman knows he
19 has a right not to incriminate himself.

20 So, if there are questions that are
21 asked to you, sir, that you would find yourself
22 admitting to be in possession of federal property

1 without permission, that's a state offense, but
2 it could also be a federal offense. There have
3 been cases in the Eastern District on this
4 particular issue with these particular rifle
5 plates over the years.

6 So, before -- if you have any
7 questions, sir, before you answer, and you think
8 you might incriminate yourself -- I don't see any
9 attorneys here that I could appoint. Usually, it
10 will be the Public Defender and you could talk
11 with that person before answering the question.

12 Or if you have or are going to assert
13 your Fifth Amendment privilege, sir, you need to
14 do that before you start answering. Because once
15 you start answering, you might have waived your
16 Fifth Amendment privilege, and we have law
17 enforcement officers here who might take your
18 admission -- might take certain things you say as
19 admission that you committed a crime, and you
20 could expose yourself to criminal liability. Do
21 you understand all that?

22 THE WITNESS: Yes, sir.

1 THE COURT: All right. And knowing
2 that, sir, are you still willing to testify
3 today?

4 THE WITNESS: I'd like to exercise my
5 Fifth Amendment.

6 THE COURT: All right. Let me see if
7 we have some questions here, and if you want to
8 assert your Fifth Amendment, we'll get to that.

9 But, right now, what he's saying is he
10 wishes to assert his Fifth Amendment privilege,
11 his right not to incriminate himself.

12 That's what I heard you say. Is that
13 correct, sir?

14 THE WITNESS: Yes, Your Honor.

15 THE COURT: All right. So, that being
16 the case, anything other than his name -- he
17 doesn't have a lawyer here and that's what
18 concerns me. If there was a public defender
19 here, I'd appoint him and he could go talk to
20 him, and we could be sure. But he's a layperson.

21 Do you have any legal training, sir?

22 THE WITNESS: No, sir.

1 THE COURT: And you and I know, and
2 the Commonwealth knows, if he gets too far down
3 the road, somebody's going to get up and tell him
4 he's waived his Fifth Amendment privilege, but
5 he's asserting it now. So, if he's asserting it
6 now, are there any questions that you think you
7 can ask him where he is not going to be either
8 opening himself up to perjury or obstruction of
9 justice? Think broadly here, because that's what
10 his lawyer would tell him, as you know.

11 MR. CLARKE: May we approach without
12 the witness?

13 THE COURT: Yes, sir. Why don't you,
14 sir, just have a seat in the back there, maybe
15 with -- just so you can't hear. And I'll hear
16 from --

17 (OFF MIC BENCH CONFERENCE.)

18 (END OF BENCH CONFERENCE.)

19 THE COURT: Mr. Dotson, why don't you
20 come forward again, sir?

21 THE CLERK: Do you want him all the
22 way to the stand, Your Honor?

1 THE COURT: Yes.

2 Why don't you come and have a seat,
3 sir?

4 And we'll just do this this way. So,
5 I have you here and you're under my --

6 (Inaudible.)

7 Mr. Dotson, you've asserted your Fifth
8 Amendment privilege to remain silent and not
9 incriminate yourself. And in this matter, the
10 issues that you -- I'm sorry -- the issues that
11 you could incriminate yourself on could range
12 from perjury, obstruction of justice, false
13 police -- filing a false police report, to
14 possession of stolen federal property. I'm not
15 saying that that's what happened. I'm just
16 saying that's a potential exposure to criminal
17 liability.

18 You've told the Court you were going
19 to assert your privilege, sir. And there's
20 nobody here granting you immunity. So, sir, I'm
21 going to, out of an abundance of caution today,
22 I'm not going to allow Mr. Clarke to question you

1 because you don't have a chance to talk to an
2 attorney.

3 And there may be a certain question he
4 could have asked that you would not waive, but
5 this case law says, once you start to talk, you
6 can't then say, now I assert my privilege. And
7 because you haven't spoken to an attorney, we're
8 going to strictly abide by that today. But that
9 doesn't mean at trial, if you're called as a
10 witness, it will go this way.

11 But everybody knows that you could be
12 involved. So, everybody knows that you would
13 have the right to an attorney. So, I hope that
14 the parties, knowing that, if Mr. Clarke is going
15 to subpoena you, which he has an absolute right
16 to do, that the Commonwealth and Mr. Clarke make
17 the judge aware that there could be some exposure
18 to you, and he'll talk to you about a lawyer, and
19 even appoint one, if necessary, so that you will
20 know what your rights are.

21 THE WITNESS: Yes, Your Honor.

22 THE COURT: All right? So, thank you

1 for being here today, sir. You're excused. But
2 please keep what I said in mind.

3 THE WITNESS: Yes, Your Honor. Thank
4 you.

5 (WITNESS EXCUSED.)

6 THE COURT: Any other besides this
7 gentleman?

8 MR. CLARKE: No, sir.

9 THE COURT: All right. Argument?
10 Does the Commonwealth reserve?

11 MS. WRIGHT: Yes.

12 THE COURT: All right. Why don't you
13 argue the case first. Then, I'll hear you on
14 your bond.

15 MR. CLARKE: Thank you, Your Honor.

16 We are here for one count of
17 possession of stolen property. We heard evidence
18 from officers that you'll see that this rifle
19 plate that says U.S. on it being either taken
20 from the vehicle or around the vehicle that Mr.
21 Wells was driving on February 9th. We also heard
22 testimony that they let him go on that day, even

1 with what else was found in the vehicle.

2 Then, we heard testimony from
3 Detective Shepherd, where he says, all I was able
4 to do was track the plate to an Army base in --
5 it was in Aberdeen, and that was it. And I
6 questioned him several times about whether or not
7 he was able to trace it over to Fort Myer. And
8 he said, no, I was just speculating that it had
9 gone to Fort Myer.

10 But, then, you heard Detective Wanik
11 come up and say, completely contradict the
12 testimony of Detective Shepherd and say that he
13 with his eyeballs saw the receipts from Detective
14 Shepherd. And that should be a huge red flag for
15 the Court, because we have two law enforcement
16 officials who are contradicting each other on
17 very important testimony about what actually
18 happened with these plates, or with this plate
19 that was found in possession.

20 So, then, that's a question of the
21 value here. We heard Detective Shepherd say,
22 yes, in 2011 this particular plate was purchased

1 by a military department for \$590. And the
2 Commonwealth asked them a question, well, you
3 know, do these things have an expiration date?
4 And he said maybe about five years. And he also
5 testified that if something is unserviceable,
6 it's just going to be considered -- basically,
7 it's trash to the military at that point. So,
8 whether or not it's actually even worth \$590
9 eight or nine years later to the military I think
10 is a strong question. I think that's the biggest
11 question here, right, is the value amount? Can
12 they meet that \$500 threshold enough for the
13 Court to certify up to the Circuit Court? And I
14 just don't think that they are able to do that.

15 Again, you have two detectives that
16 are conflicting in their testimony. None of them
17 really knows how much this plate would actually
18 cost today. And the value being in question is
19 something that the Court should strongly consider
20 and not certify in this case.

21 The next thing is the knowledge of
22 possession of the stolen property. We heard

1 Detective Wanik say that there were at least two
2 different explanations given by Mr. Wells. The
3 first one, which I would say is the truth, right,
4 because it's the first explanation that's given,
5 is that he got it from someone else, that he
6 legally purchased it, which says that he doesn't
7 have the knowledge that it's stolen.

8 Then, he gets into when Detective
9 Wanik says that they're going around in circles
10 several times. Then, he says, oh, well, you
11 know, when I was in the military base, I may have
12 taken it from Dotson. And then, you heard
13 Detective Wanik say that he overheard Dotson tell
14 someone that that wasn't his, that his rifle
15 plate was not taken.

16 So, with all that, Your Honor,
17 speculation was used a lot today, the word,
18 speculation. Speculation, and conjecture wasn't
19 used, but I would assert, Your Honor, that's all
20 this case is, is speculation and conjecture.
21 They have no idea what happened to this plate
22 after 2011. And they don't know whether or not

1 Mr. Wells said while he was in Fort Myer, they
2 don't know whether or not he bought it from
3 someone online, or purchased it some other way.
4 All they know is that he was in possession of
5 this, but they haven't been able to prove
6 anything about him knowing that this particular
7 plate was stolen, Your Honor.

8 Thank you.

9 THE COURT: Okay. Commonwealth?

10 MS. WRIGHT: Your Honor, all we know
11 is that Defendant was outside of the gate, and
12 when police talked to him, he was in possession
13 of this rifle plate. Detective Shepherd
14 testified that the Army purchases these rifle
15 plates, and that once the Army purchases the
16 rifle plates, they ultimately make their way to
17 Fort Myer. He testified that this particular
18 plate made its way to Fort Myer, where it was
19 then distributed out.

20 He testified that no one retains
21 possession of these rifle plates once they are
22 discharged or retired from the United States

1 Army. And he indicated that the Army has checks
2 and balances in place for distribution of the
3 plates, as well as retaining the plates. When I
4 asked him about the service life of the plates,
5 he indicated that they're either serviceable or
6 they're not. He indicated that they don't
7 depreciate. And that's the evidence that we have
8 before us today.

9 He indicated that the Army values them
10 at \$590 and the Army, then, decides whether they
11 can be distributed out to their servicemen. He
12 indicated that a non-serviceable plate would not
13 be issued out. So, the fact that a plate is
14 issued means that it is serviceable. And he
15 indicated that they don't depreciate. He said
16 they're worth \$590. And that is the evidence
17 that we have before the Court at this time in
18 regards to the value.

19 In regards to knowledge, the Defendant
20 testified that he knew that he was not supposed
21 to be in possession of that plate. He indicated
22 that he thought it was his roommate's plate, but

1 he wasn't quite sure where it came from. But,
2 ultimately, he indicated that he knew that, when
3 he was discharged from the Army, he was supposed
4 to return all of his Army-issued equipment and
5 that he was not to be in possession of any Army-
6 issued equipment, including the rifle plate that
7 was found in his possession in February of this
8 year.

9 THE COURT: Well, there's no doubt
10 that the plate was found in his possession. The
11 Court is also convinced that this -- that the
12 investigation of Detective Shepherd regarding the
13 serial number was that this plate was bought by
14 the United States Army. The testimony was that
15 these plates are issued and that they are
16 supposed to be given back.

17 The statement of the Defendant was
18 that, when he was processed out, he gave
19 everything back that he was supposed to give
20 back, that he had some signing to do, but when he
21 was at CIF, he turned in all his equipment. He
22 didn't owe anything to the military. He turned

1 everything in.

2 The testimony was by the two
3 detectives -- I do remember what Mr. Clarke was
4 saying, is that the plate originated in Aberdeen
5 and, from there, it went out. And Detective
6 Wanik said that he saw receipts or information
7 that it made its way into Fort Myer.

8 Again, being a probable cause hearing,
9 and looking at the statements of the Defendant,
10 he made a number of statements. But the Court,
11 looking at probable cause, can look at his other
12 statements as being self-serving, and when they
13 weren't being accepted, he said, yeah, right, I
14 took the plate from Fort Myer, and I know I
15 shouldn't have it in my possession.

16 So, based on that, we have knowledge,
17 intent, knowing the nature of the item that he
18 has in his possession, that he shouldn't have in
19 his possession, that he knew it didn't belong to
20 him, the Court is satisfied that there's probable
21 cause for this charge, and I will certify it to
22 the Grand Jury.

1 And on the value issue, he testified
2 it was \$590. There's no testimony that when Mr.
3 Wells took it into possession it was not usable.
4 And then, the Court can infer that he had it in
5 his possession because it was usable. Or else,
6 why would he have it with all of his other gear,
7 if it was a piece of junk?

8 And being usable, the testimony was
9 that it did not depreciate. It's either usable,
10 or it's broken and not usable. There's recent
11 case law that talks about the items and value of
12 items and it could be the resale value, it could
13 be the replacement value. And that would be an
14 issue at trial as to what it was. But, right
15 now, the only evidence I have is it's worth \$590,
16 which Mr. Clarke is right, it's not much over
17 500, but it's sufficient enough for the statute.

18 So, I do find probable cause to
19 certify this case to the Grand Jury. I order it
20 certified for the next term. And I'll hear you
21 on your bond issue now that we have had a
22 hearing.

1 And again, I would just explain to you
2 I didn't know this was on for prelim. We would
3 have had the officer here and he could cross-
4 examine on this statement that he made. And I
5 would get a chance to hear more about the facts
6 and circumstances.

7 So, go ahead, Mr. Clark.

8 MR. CLARKE: Your Honor, I know that
9 Your Honor went through at length the bond motion
10 and I made arguments earlier. So, I'm not going
11 to rehash those. But I do want to just lock in
12 some key points that we're talking about --

13 THE COURT: Sure.

14 MR. CLARKE: -- relevant to risk
15 assessment.

16 And you heard the testimony from the
17 officers about how far away from the base that he
18 was. Some of them couldn't tell me whether or
19 not he could see the --

20 THE COURT: Well, I tell you, once
21 they oriented me, I know now which side they were
22 going to, because of my mother's military

1 experience. She goes over there all the time.
2 So now, I know that and have that. The entrance
3 by Henderson Hall and, then, there's one further
4 down that's blocked off now, I know exactly what
5 you're talking about.

6 MR. CLARKE: Okay.

7 THE COURT: So, yes.

8 MR. CLARKE: Yes. And I believe the
9 testimony was that he was just gesturing towards
10 the cemetery and he was on the phone. I mean,
11 this is not someone that's --

12 THE COURT: Well, what's not in your
13 bond motion -- and which I didn't know
14 previously, I just heard -- was there was a
15 number of magazines that were loaded with armor-
16 piercing rounds. I think I heard three, 33 clips
17 that could hold 30 rounds, I think Detective
18 Wanik testified.

19 MS. WRIGHT: Five.

20 THE COURT: Five?

21 MS. WRIGHT: Five.

22 MR. CLARKE: That sounds like a

1 Virginia Legislature issue. They haven't charged
2 him with anything having to do with these --

3 THE COURT: Well, I know, but now
4 we're talking about danger to the community and a
5 risk of flight. And I haven't heard -- I don't
6 see -- it hasn't been on the record about the
7 risk of flight, but the danger to the community
8 is, I think the Commonwealth will correct me if
9 I'm wrong, but I believe that that's probably
10 what they're more concerned about and what the
11 Court should be concerned about.

12 MR. CLARKE: So, I think having
13 firearms in the trunk of the vehicle, firearms
14 that are now in the possession of Arlington
15 County, and they're properly stored in accordance
16 to the Virginia Code. I think the Court should
17 weigh that heavily.

18 I mean, this is not a situation where
19 he's riding with this rifle on the passenger
20 seat, and even the handgun that he has is
21 unloaded. It's properly stored. He's going
22 above and beyond to try to comply with the law

1 here, in trying to store and transport these,
2 these firearms.

3 So, the fact of the matter is that
4 just by possessing these firearms shouldn't make
5 him a danger to the community, when Virginia
6 allows people to do this. It's not something
7 that's disallowed in Virginia. I understand
8 there's a lot of politics around maybe gun
9 control, but Mr. Wells is following the law as it
10 is today.

11 And the only thing that he may have
12 been breaking the law in doing that day was he
13 had dead tags, which is why they, why they were
14 able to get him out of the vehicle in the first
15 place. I mean, he's even upfront with the
16 officers when he tells them, yes, there are
17 firearms in the vehicle. There's nothing amiss
18 about his ownership of firearms.

19 And remember, this is someone that
20 just got out of the military. So, the culture
21 and his mindset is a little bit different around
22 firearms, versus an everyday citizen. I would

1 like the Court to take that into consideration.

2 In addition, I do have a letter from
3 his business partner, Mr. Justin Matterson
4 (phonetic), who's actually in the courtroom
5 today.

6 THE COURT: Has the Commonwealth seen
7 it?

8 MS. WRIGHT: No.

9 MR. CLARKE: So, he has a job, Your
10 Honor. He is employed. Like you heard in the
11 testimony, he has two vehicles, two Ducatis. One
12 of his vehicles is a Mustang, the other one is
13 Pontiac G6. This is definitely not someone that
14 doesn't have anything going for him.

15 In addition, during the interview, he
16 told them about the business deal that he has
17 pending, that he was very close on closing -- on
18 closing deals. And again, his business partner
19 is here to be able to speak to that, if the Court
20 would want.

21 But, again, we're talking about
22 someone who is trying to make a way for himself

1 outside of being in the military. And he told
2 the officers that he just got, he just got
3 finished with his run in D.C. He was coming back
4 to get a CV, he pulls over to make this phone
5 call, another overabundance of trying to follow
6 the law, and that's when they come and say, oh,
7 you know, you look suspicious because you're
8 pointing towards the cemetery. So, this is
9 definitely not someone that is a danger to the
10 community.

11 And Mr. Wells does have something that
12 he would like the Court to briefly listen to, if
13 the Court would allow it. I would have rather
14 him be here, but considering the circumstances,
15 I'm fine with him being able to do that.

16 THE COURT: Well, Mr. Wells, if you
17 start speaking today, then I am going to -- you
18 have a lawyer. The lawyer's making your
19 argument. You're not under oath. I would then
20 have to have the Commonwealth be able to cross-
21 examine you, which, you know, we're past the
22 admission of the evidence stage.

1 So, your counsel is here making the
2 argument. He's competent counsel. He knows what
3 he's doing. He knows what the facts are. He
4 knows what he needs to argue.

5 I don't know what you're going to add
6 that's going to help your case, because anything
7 that you say, sir, could be used against you
8 later. Because, you know, you just can't make
9 free statements. This isn't sentencing where you
10 can allocute. This is a bond motion.

11 And if you're going to offer
12 testimony, I'll put you under oath and let the
13 Commonwealth cross-examine you. Then, you're
14 talking about possibly waiving Fifth Amendment
15 privilege. I don't know if that's the wisest
16 course of action.

17 You sure you want to do this?

18 THE DEFENDANT WELLS: Your Honor, I
19 hope this doesn't count as for me talking, but if
20 my counsel recommends and I were to speak, I
21 would have no issue speaking, Your Honor.

22 MR. CLARKE: Well, I am not going to

1 recommend that you speak anything else -- say
2 anything else, Mr. Wells.

3 THE COURT: All right. I'll hear from
4 the Commonwealth.

5 MS. WRIGHT: Your Honor, when
6 Defendant was stopped on that day, he had several
7 items in his car that were concerning to the
8 Commonwealth. He had a black Glock that was in
9 the vehicle at the center console, and he also
10 had the AR-15. He had five fully-loaded 30-round
11 magazines. He had a drone, a laptop, a crowbar,
12 a hammer, knives, padded knuckles, two face
13 masks, two vests with bulletproof armor. He had
14 the rifle plate. He had a grenade. He had
15 walkie-talkies. He had a list of dark web
16 websites. And he also had a handwritten list of
17 equipment that he still needed to purchase for an
18 op, as well as stack of papers we believe to be a
19 manifesto.

20 When he was later interviewed, he gave
21 an account of how he would attack a base, and
22 that is concerning to the Commonwealth.

1 I know Defendant's counsel likes to
2 argue that he's a Gen Z'er and they just like to
3 make these statements, but it's concerning to the
4 Commonwealth that, regardless of why he would
5 make the statements, he made a very chilling
6 account step by step on what he would wear, how
7 he would do it, what he would do -- an account,
8 it was a 10-minute-long account to the detective
9 on how he would attack this base. So, the
10 Commonwealth does believe that he is a risk to
11 the community.

12 Additionally, the letter that was
13 passed up to the Court from Justin Matterson, I
14 just want to let the Court know that he's on
15 supervised probation in the Circuit Court here in
16 Arlington County for a malicious wounding charge
17 that (inaudible) I believe last year.

18 So, I think this is a chilling
19 account. I think this is something that the
20 Court should take very seriously. I think he
21 obviously has the means to do this. He has
22 firearms. He is in possession of several items

1 that he could take the next step to conduct this.

2 And so, the Commonwealth is asking
3 that he remain held without bond.

4 THE COURT: Was this grenade found to
5 be an operable grenade?

6 MS. WRIGHT: I think they disposed of
7 it. Yes.

8 PARTICIPANT: It was a smoke grenade,
9 Your Honor. It was a smoke (inaudible).

10 THE COURT: Is that considered an
11 incendiary device that needs to be registered by
12 the ATF?

13 PARTICIPANT: We don't think so, Your
14 Honor.

15 THE COURT: All right. Is anybody
16 from the ATF here?

17 (NO RESPONSE.)

18 No? All right.

19 MR. CLARKE: And again, Your Honor,
20 they are in possession of all these items, and
21 the Court can impose conditions that would keep
22 the community safe.

1 THE COURT: All right. Well, I think
2 I know what I'm --

3 THE DEFENDANT WELLS: I want to speak.

4 THE COURT: Mr. Wells, your attorney
5 is arguing and he's doing a -- I think, in the
6 Court's -- he's doing a good job trying to get
7 you out.

8 But what he's overlooking, sir, is the
9 totality of this circumstance. It's not as if
10 you were on the highway and you were pulled over
11 and you had these items in the car. You were
12 right next to the base that you have been
13 separated from, with weapons capability, the
14 knowledge, the knowhow, an ops list, and perhaps
15 the motivation to seek some vengeance.

16 As you said in your statement, let's
17 say even if I had a vendetta against them,
18 nowhere in my heart in any way, shape, or form
19 would I ever do anything to an innocent person.

20 All right. So, you're talking about,
21 I wouldn't hurt an innocent person, but you're
22 not talking about these people who you might have

1 had a vendetta against.

2 But what's moving to the Court is you
3 say -- you're talking about having to wear pants
4 and boots, and then, you say, I'm not trying to
5 go into this too much because I'm once again
6 weighing again that I wouldn't do it, but that's
7 the way I would have wanted to do it, and that's
8 what I really want to weigh heavily on.

9 And when I read that sentence, sir,
10 what I am seeing is somebody who's weighing his
11 options, to use your word, considering how to do
12 it. Against it, for it, how would I do it? I
13 don't want to hurt innocent people, which, in
14 your language, civilians, but those that you
15 might have a vendetta against, reading this, I
16 would believe that you would say that those are
17 not innocent people.

18 Sir, the Court has to consider the
19 danger to the community in these types of cases
20 and how people separated from the military, or
21 separated from law enforcement, or even separated
22 from their jobs, get it in their mind that

1 they're so upset and angry, they have to take
2 action, which involves people being killed.

3 That did not happen, but, certainly,
4 sir, you talked about you studied the tactics and
5 training. You have a smoke grenade for cover.
6 You have body armor, the military knowhow, and
7 the means to carry this out.

8 And, sir, I do find that there are no
9 terms or conditions that I can set that would
10 guarantee the safety of the community, that I
11 would feel comfortable releasing you on, and be
12 able to think that you might not change your
13 mind, because you are weighing --

14 THE DEFENDANT WELLS: Your Honor, let
15 me explain --

16 THE COURT: -- heavily.

17 So, sir, I've made my decision. I'm
18 not going to change it. So, if you wish to
19 speak, it's not going to change my mind.

20 Now that this has been decided, and
21 you are going up to the Circuit Court, Mr. Clarke
22 I'm sure will file another bond motion. You'll

1 have another judge listen to it and continue to
2 seek your release.

3 But, today, sir, I will certify the
4 case and you will continue to be held without
5 bond until your appearance in the Circuit Court.

6 THE DEFENDANT WELLS: All right. May
7 I speak?

8 THE COURT: Sir, I've already made up
9 my mind.

10 THE DEFENDANT WELLS: I want to speak.

11 THE COURT: So, I don't -- you're not
12 going to gain --

13 THE DEFENDANT WELLS: I understand.

14 THE COURT: -- anything by speaking.
15 So, I would advise against it.

16 Mr. Clarke, do you want your client to
17 speak?

18 MR. CLARKE: No, Mr. Wells, we can
19 speak afterwards.

20 THE COURT: All right. Please turn
21 off the microphone.

22 MR. CLARKE: Thank you, Your Honor.

1 THE COURT: All right. Thank you.

2 And so, I'll just leave this. I
3 didn't reconsider -- just so we don't have any
4 issues with whatever might go on upstairs when
5 this case makes its way up there, but on the bond
6 hearing because it is I do have the ability, and
7 I agree with you 100 percent, to make another
8 determination regarding changed circumstances, et
9 cetera. Okay? So, I'll leave that in place.

10 And good luck to you, Mr. Clarke, in
11 this case.

12 MR. CLARKE: Thank you, Your Honor.

13 THE COURT: All right. All right.
14 So, that's it for the preliminary hearings.

15 (WHEREUPON, THE PROCEEDINGS IN THE
16 ABOVE-ENTITLED MATTER WERE CONCLUDED.)
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In the matter of: Virginia v Curtis Wells

Before: The Honorable Daniel T. Lopez, Judge

Date: 03-16-20

Place: Arlington, VA

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